S. Hrg. 99-600, Pt. 1

MISCELLANEOUS CONVEYANCES, TRANSFERS, AND BOUNDARY MODIFICATIONS PERTAINING TO PUBLIC LANDS

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED
WATER AND RESOURCE CONSERVATION

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

S. 304
S. 360
S. 446
S. 565
S. 567
S. 829
S. 1503
S. 1625
S. 1690

OCTOBER 4, 1985

PART 1

Printed for the use of the
Committee on Energy and Natural Resources

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S311-39

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MISCELLANEOUS CONVEYANCES, TRANSFERS, AND BOUNDARY MODIFICATIONS PERTAINING TO PUBLIC LANDS

FRIDAY, OCTOBER 4, 1985

U.S. Senate, Subcommittee on Public Lands, Reserved Water and Resource Conservation, Committee on Energy and Natural Resources,
Washington, DC.

OPENING STATEMENT OF HON. JOHN MELCHER, A U.S. SENATOR FROM THE STATE OF MONTANA

Senator **Melcher**. The committee will come to order. This morning we will hear testimony on—it looks like 9 bills—S. 304,[1] S. 360, S. 446,[1] S. 565, S. 567, S. 829, S. 1503, S. 1625, S. 1690,[2] and the hearing record will remain open on all of these bills for 2 weeks after today, during which time written testimony on any of the bills can be submitted to the subcommittee.

In the interest of time, I would ask the witnesses to limit their testimony to 3 minutes. Additional written comments may be provided and the entire testimony, oral and written, will be included in the record.

Senator Zorinsky is here, and his bill is S. 360, to direct the Secretary of Agriculture to convey, without consideration, to the Nebraska Game and Parks Commission approximately 160 acres of land within the Nebraska National Forest to be used for the purposes of expanding the Chadron State Park, Nebraska.

Senator Zorinsky, might I tell you that I am familiar with the Chadron State Park. I have spent many a delightful day there as a youth, and I hope your bill passes.

[The texts of the bills follow:]

---

[1] Indefinitely postponed.

[2] Rescheduled for March 4, 1986 hearing.

II

99th CONGRESS
1st Session

S. 360

To direct the Secretary of Agriculture to convey, without consideration, to the Nebraska Game and Parks Commission, approximately 160 acres of land within the Nebraska National Forest to be used for the purposes of expanding the Chadron State Park, Nebraska.

IN THE SENATE OF THE UNITED STATES

January 31 (legislative day, January 21), 1985

Mr. Zorinsky introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To direct the Secretary of Agriculture to convey, without consideration, to the Nebraska Game and Parks Commission, approximately 160 acres of land within the Nebraska National Forest to be used for the purposes of expanding the Chadron State Park, Nebraska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) no later than the one hundred and eighty days following the date of enactment of this Act and subject to the provisions of subsection (b), the Secretary of Agriculture shall convey, without consideration, to the Nebraska Game and

Parks Commission, all right, title, and interest of the United States in the real property described in subsection (c).

(b) The Secretary of Agriculture shall reserve for the United States any subsurface rights that the United States owns in the real property conveyed under this Act including oil and gas rights. The Secretary shall provide that title in such real property shall revest in the United States upon failure of the Nebraska Game and Parks Commission to use the land as part of the Chadron State Park, Nebraska.

(c) The land referred to in subsection (a) consists of approximately 160 acres within the Nebraska National Forest and is described as follows:

The east half of the southwest quarter, the west half of the southeast quarter, and that part of the southeast quarter of the southeast quarter lying west of State Highway 385, of Section 25, Township 32 North, Range 49 West, 5th Principle Meridian, Dawes County, Nebraska.

○

II

99TH CONGRESS
1ST SESSION

S. 565

To direct the Secretary of Agriculture to convey, without consideration, to the Town of Payson, Arizona, approximately 31.14 acres of Forest Service lands.

IN THE SENATE OF THE UNITED STATES

MARCH 5 (legislative day, FEBRUARY 18), 1985

Mr. DECONCINI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To direct the Secretary of Agriculture to convey, without consideration, to the Town of Payson, Arizona, approximately 31.14 acres of Forest Service lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of Agriculture is authorized to transfer, without consideration, to the Town of Payson, Arizona, a parcel of land comprising approximately 31.14 acres, known as North Rumsey Park, in the Town of Payson, County of Gila, Arizona.

○

II

99TH CONGRESS
1ST SESSION

S. 567

To convey Forest Service Land to Flagstaff, Arizona.

IN THE SENATE OF THE UNITED STATES

MARCH 5 (legislative day, FEBRUARY 18), 1985

Mr. DECONCINI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To convey Forest Service Land to Flagstaff, Arizona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b)(1) of the first section of Public Law 96-581, relating to land conveyances in the State of Arizona, is amended by striking out "Any conveyances" and inserting in lieu thereof "Except as provided in subsection (c), any conveyances".

(b) Paragraph (1) of subsection (c) of such section is amended to read as follows:

"(1) Of the tract of land described in subsection (a) of this section, the Secretary shall convey, without consideration, to the city of Flagstaff, Arizona, 132.5 acres, under special use permit in effect on the date of enactment of this Act to the city of Flagstaff.".

(c) The first sentence of subsection (c)(2) of such section is amended by striking out: "Flagstaff Medical Regional Center and the".

○

II

99TH CONGRESS
1ST SESSION

S. 829

To authorize the Secretary of the Interior to convey certain lands withdrawn by the Bureau of Reclamation for townsite purposes to the Huntley Project Irrigation District, Ballantine, Montana.

IN THE SENATE OF THE UNITED STATES

APRIL 2 (legislative day, FEBRUARY 18), 1985

Mr. MELCHER (for himself and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize the Secretary of the Interior to convey certain lands withdrawn by the Bureau of Reclamation for townsite purposes to the Huntley Project Irrigation District, Ballantine, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 3 of the Act of April 16, 1906 (34 Stat. 116; 43 U.S.C. 556), the Secretary of the Interior is authorized and directed to convey title, without compensation except for administrative costs associated with the preparation of title and legal description not to exceed a total of $750, to the Huntley Irrigation District, a recognized municipal corporation of the State of Montana, located in Ballantine, Montana, any lands withdrawn by the Bureau of Reclamation and reserved for townsite and public purposes under the provisions of section 3 of the Act of April 16, 1906, in the unincorporated townsites of Osborn, Ballantine, Huntley, Worden, and Pompeys Pillar, State of Montana, as further described by section 2.

SEC. 2. The lands to be conveyed in section 1 are more completely defined as all of the public lands withdrawn by the Bureau of Reclamation for townsite and public purposes and described as these lands located in:

(a) Osborn Public Park in the northeast quarter of the northeast quarter and the southeast quarter of the northeast quarter of section 16, township 2 north, range 28 east, town of Osborn, county of Yellowstone, State of Montana;

(b) Ballantine Public Park located in lots 1, 2, 3, 4, 5, 6, 7, 8, 13, and 14, block 8, southwest quarter of section 5, township 2 north, range 29 east, town of Ballantine, county of Yellowstone, State of Montana;

(c) the Riverside Park area of the southeast quarter of the southwest quarter section 24, township 2 north, range 27 east, town of Huntley, county of Yellowstone, State of Montana;

(d) Worden Town Park Reserve in blocks 46, 49 and 51 of the townsite located in the southwest quarter of the southeast quarter of section 31, township 3 north, range 29 east, town of Worden, county of Yellowstone, State of Montana; and

(e) Pompeys Pillar Park in all of blocks 17, 19, and 26 and a small portion of blocks 15 and 21 of the Pompeys Pillar townsite located in the southeast quarter of section 23, township 3 north, range 30 east, town of Pompeys Pillar, county of Yellowstone, State of Montana.

SEC. 3. The lands conveyed under this Act shall continue to be reserved, maintained, and utilized for park and other public purposes. Should the intended uses no longer be maintained on any of the above tracts the title to the subject tract of land, together with all improvements thereon, shall revert to the United States.

○

99TH CONGRESS
1ST SESSION

S. 1503

To clear title to certain lands along the California-Nevada boundary.

IN THE SENATE OF THE UNITED STATES

JULY 25 (legislative day, JULY 16), 1985

Mr. LAXALT (for himself, Mr. HECHT, Mr. CRANSTON, and Mr. WILSON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To clear title to certain lands along the California-Nevada boundary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) thousands of acres of public lands transferred by the United States to the State of California or to the State of Nevada on or before June 1, 1982, are now located within the other State according to the boundary between them established by the United

States Supreme Court in the case of California against Nevada (447 U.S. 125 (1980));

(2) each State accepted such transfers as valid, and commencing over 125 years ago, conveyed substantially all of the land into private ownership;

(3) the original title of each State and political subdivisions thereof and subsequent private parties has been treated as good and valid for all governmental and private purposes;

(4) it is imperative that certainty of title to, and ownership of, these lands be established as soon as practicable in order to avoid any undue hardship on the States of California and Nevada and affected private parties; and

(5) litigation is not an appropriate means of resolving the questions of title and ownership of the affected lands in that it would result in unprecedented and unnecessary burdens and expenses on the courts of the United States and the States of California and Nevada, as well as on private property owners.

SEC. 2. TRANSFERS TO CALIFORNIA.

Grants and all other transfers of public land to the State of California by the United States by a statute, clear list, selection, patent, or any other means on or before June 1, 1982—

(1) which are located in the State of Nevada according to the boundary between the States of California and Nevada, as defined in the case of California against Nevada (447 U.S. 125 (1980)); and

(2) which have been patented or otherwise conveyed to a third party by the State of California,

are not invalid because such land or portions of such land are located in the State of Nevada.

SEC. 3. TRANSFERS TO NEVADA.

Grants and all other transfers of public land to the State of Nevada by the United States by a statute, clear list, selection, patent, or any other means on or before June 1, 1982—

(1) which are located in the State of California according to the boundary between the States of California and Nevada, as defined in the case of California against Nevada (447 U.S. 125 (1980)); and

(2) which have been patented or otherwise conveyed to a third party by the State of Nevada,

are not invalid because such land or portions of such land are located in the State of California.

SEC. 4. CERTAIN LANDS NOT AFFECTED.

This Act shall not apply to any public land referred to in section 2 or 3 which has not been patented or otherwise conveyed to a third party by the State of California or the State of Nevada, as the case may be.

SEC. 5. LANDS AFFECTED.

Not later than six months after the date of the enactment of this Act, the Secretary of the Interior shall, in coordination with the States of California and Nevada, develop a list of the property affected by sections 2 and 3. Such list may be amended from time to time so long as each portion of the land to be added to such list is described in section 2 or 3. Such list, and any amendment thereto, shall be published in the Federal Register.

○

99TH CONGRESS
1ST SESSION

S. 1625

To authorize the conveyance of 470 acres in Nevada to the University of Nevada for use as a research and development center.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11 (legislative day, SEPTEMBER 9), 1985

Mr. LAXALT (for himself and Mr. HECHT) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize the conveyance of 470 acres in Nevada to the University of Nevada for use as a research and development center.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.), the Secretary of the Interior shall convey to the University of Nevada the lands described in subsection (b) to be used to create a research and development center.

(b) The lands to be conveyed pursuant to subsection (a) are comprised of two parcels described as follows:

(1) T. 20 N., R. 19E, Sec. 25: Lots 1, 2, 3, 4, 5, 11, SE 1/4 NW 1/4, NE 1/4 SW 1/4, Mount Diablo Meridian, Nevada, containing 309.11 acres; and

(2) T. 20 N., R. 19E, Sec. 25: Lots 6, 7, SW 1/4 NE 1/4, NW 1/4 SE 1/4, Mount Diablo Meridian, Nevada, containing 158.22 acres.

○

STATEMENT OF HON. EDWARD ZORINSKY, A U.S. SENATOR FROM THE STATE OF NEBRASKA

Senator ZORINSKY. Thank you, Mr. Chairman. I appreciate the opportunity to make this statement and for you to take your time for these hearings, and the other members also for holding hearings on this land conveyance contained in S. 360. The legislation would provide for the transfer approximately, as you pointed out, of 160 acres of land within the Nebraska National Forest and the National Nebraska Game and Parks Commission to be utilized in adding camping facilities and nature trails for hiking and horseback riding to the Chadron State Park.

And as you are well aware with our State, we are not noted for a State of forests, and therefore we need every inch of nature capability that we possibly can get. S. 360 is the only solution to the longstanding problem of inadequate camping facilities at Chadron State Park. The park attracts some 200,000 visitors a year and it has no campground and no land suitable for campground development, and as a result, camping occurs randomly near the park entrance.

The Nebraska Game and Parks Commission is anxious to put the land to good use. Transfer of the land would greatly enhance public use of Chadron State Park, and besides the land transfer there is simply no other alternative for developing camping facilities at the park.

The land involved is bordered on two sides by the Chadron State Park, and therefore is contiguous to the State park. The use of this land would be upgraded and all improvements, of course, would be provided by the State of Nebraska.

The legislation protects the Federal Government's rights to oil and gas and other subsurface interests. In the event that the Nebraska Game and Parks Commission fails to utilize the land as a part of Chadron State Park, the land shall revest in the U.S. Forest

Service. In addition, the land to be conveyed will continue to be used for public park purposes.

My good friends and colleague, Senator Jim Exon and Congresswoman Virginia Smith are in support of this legislation. I might also add that the Governor of Nebraska, Robert Kerrey, has expressed support for S. 360, as has the State senator from that district, Sandra Scofield from Chadron, NE; and both have previously written to you, and I request that their letters be made part of the record.

[The letters submitted by Senator Zorinsky follow:]

STATE OF NEBRASKA
ROBERT KERREY • GOVERNOR

85 JUL 25 AM 9 21

July 17, 1985

The Honorable Malcolm Wallop
Chairman, Sub-Committee on Public Lands,
Reserve Water and Resource Conservation,
Committee on Energy and Natural Resources
U.S. Senate
Washington, D.C. 20510

RE: S. 360

Dear Senator Wallop:

I am writing to express my support for Senate Bill S. 360 that would transfer free of charge 160 acres of adjacent federal forest land to Chadron State Park for development as a campground.

Chadron Park is located in the Pine Ridge region of northwest Nebraska. The existing 800-acre tract is one of the state's oldest and most scenic park attractions realizing some 200,000 visitors in 1984 including 11,500 campers.

Since the park is bounded on three sides by U.S. Forest Service lands, and on the fourth by a U.S. Highway and small private land holdings, the only logical place to seek out new park land is with the Forest Service.

Over the years, a number of unsuccessful attempts were made to secure the desired Forest Service tracts. These attempts failed either because the Game and Parks Commission was unable to comply with development restrictions placed in special permits or adequate funding could not be obtained for land purchases.

Chadron State Park today is still in dire need of an organized campground to adequately serve its many campers and to complete the park visitor services program.

Our state government, as well as others, is continuing to experience a declining economy and our ability to secure the described forest land is more remote today than in the past.

I am informed that the Commission's relationship with the Nebraska National Forest management practices is extremely compatible. They look upon the U.S. Forest Service as a good neighbor at Chadron Park and an enjoyment to the park visitor to have vast Forest Service resources as outdoor space on which to hike and explore.

OFFICE OF THE GOVERNOR, BOX 94848, LINCOLN, NEBRASKA 68509-4848, PHONE (402) 471-2244
AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

The transfer of Forest Service land to the Game and Parks Commission as provided by the S. 360 legislation would not only provide for a continuance of the tract as public use land but would actually serve to intensify and enhance public use of the parcel.

I respectfully request the Committee's endorsement of this legislation.

Sincerely,

RL Kerrey

Robert Kerrey
Governor

RK:mlc

Nebraska State Legislature
Unicameral
Lincoln, Nebraska 68509

SENATOR SANDRA K. SCOFIELD
District No. 49
Scofield Farm
P. O. Box 527
Chadron, Nebraska 69337
(308) 432-5864

Legislative Address:
State Capitol, Room 2000
Lincoln, Nebraska 68509
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EIGHTY-NINTH LEGISLATURE

1985 JUL 22 PM 2:51

July 18, 1985

The Honorable Malcolm Wallop
Chairman, Sub-Committee on Public Lands
Reserve Water and Resource Conservation
Committee on Energy and Natural Resources
U.S. Senate
Washington, D.C. 20510

Dear Senator Wallop:

I am writing in support of Senate Bill S.360 that would transfer free of charge 160 acres of adjacent federal forest land to the State Game and Parks Commission at Chadron State Park (Dawes County, Nebraska) for campground development.

Chadron State Park is located in the Pine Ridge region of northwest Nebraska. The 800-acre tract is one of the state's most scenic parks and attracted about 200,000 visitors during 1984; 11,500 campers were counted among those visitors.

In 1968, a master plan for outdoor recreation development at Chadron State Park was assembled and park development has proceeded along guidelines set forth in the plan and is continuing to do so.

Since that time, the park land has been purchased from the state's Board of Educational Lands and Funds, day use areas improved with modern sanitary facilities, all utilities upgraded, structures renovated, park roads and parkings hard surfaced and a few new park structures added.

Also, recognized in that plan was a need of additional lands for campground development. No suitable site is contained within the boundary of the existing park for campground construction and camping currently occurs haphazardly in designated day use areas.

The Honorable Malcolm Wallop
July 18, 1985
Page Two

Since the park is bounded on three sides by U.S. Forest Service lands and on the fourth by a U.S. highway and small private land holdings, the logical place to seek out new park land is with the Forest Service.

Over the years a number of unsuccessful attempts were made to secure the desired Forest Service tracts. These attempts failed either because the Game and Parks Commission was unable to comply with development restrictions placed in special permits or the Commission could not obtain sufficient funding for land purchases.

Chadron State Park today is still in dire need of an organized campground to adequately serve its campers.

Our state government, as well as others, is continuing to experience funding difficulties, especially so when attempting to acquire outdoor recreation land, and our ability to secure these desired lands is more remote today than in the past.

As legislator for Nebraska District 49 and a resident of the Chadron community, I am aware that the Chadron State Park operation relationship with the Nebraska National Forest management practices is extremely compatible. The U.S. Forest Service is a good neighbor to Chadron State Park, and the Forest Service resources provide added enjoyment to the park visitor as outdoor space on which to hike and explore.

The transfer of Forest Service land to the Game and Parks Commission as set forth in this bill would not only provide for a continuance of the tract as public use land but would actually intensify and enhance public use of the parcel.

I strongly urge the Committee to support this legislation.

Sincerely,

Sandra K Scofield

Sandra K. Scofield
State Senator
49th Legislative District

SKS:als

Senator **Melcher**. Mr. Cargill, this is Forest Service land?

Mr. **Cargill**. Yes, Senator.

Senator **Melcher**. Then you are in support of the bill?

Mr. **Cargill**. No, sir.

Senator **Melcher**. Why?

Mr. **Cargill**. There are several reasons, the primary one being the conveyance without consideration. Do you wish me to——

Senator **Melcher**. Do you mean there is no consideration for it?

Mr. **Cargill**. It is conveyed without payment.

Senator **Melcher**. Well, it is a governmental entity.

Mr. **Cargill**. Yes. But it is a piece of National Forest land which belongs to all the people in the United States, and when conveyed out of National Forest ownership, we think it should be done with consideration or payment made.

There are other factors about the bill.

Senator **Melcher**. This 160 acres is acquired, isn't it?

Mr. **Cargill**. That's right. It is acquired under the Bankhead-Jones Act.

Senator **Melcher**. Well, Congress made Bankhead-Jones. It can acquire that 160 acres just as easily.

Mr. **Cargill**. I understand. Yes, Congress can do this.

Senator **Melcher**. Well, you wouldn't have had the land if somebody else had had it. You just acquired it, because nobody else was using it very much, and it looked like a good place to put it.

Mr. **Cargill**. And we don't object to the State Park acquiring the land. In fact, we have been working for quite some time with the State to work an exchange.

Senator **Melcher**. There isn't much land around there to exchange. Do you have a forest plan for it, for this 160 acres?

Mr. **Cargill**. That 160 would be part of the Nebraska Forest Plan. I don't know if it has been filed final or not. It would be at least in a draft stage, and the plan would allow the State acquiring that land through exchange.

Senator **Melcher**. Well, you just fell into a trap, I think. You've got a State that wants to do it, and somebody else who is very much interested in what happens to the Forest Service also thinking that this makes a lot of sense, and they're going to manage it better as far as the public is concerned than how you're going to manage it. And I dare say you can look at that plan and you can see that the plan doesn't show it being intensely managed the way Chadron State Park wants.

Chadron State Park is open to all the public of the United States. It just happens to be a little mecca in an area that doesn't have much land like that where the public can get at it. There isn't much land like that in that end of the State and the neighboring State of South Dakota where I used to live.

Mr. **Cargill**. I should point out that the bill describes 175 acres.

Senator **Melcher**. Well, I suspect for a purpose.

Mr. **Cargill**. There is about 2 acres that are encroached upon by another person who, through an erroneous survey, occupies the land and we are working with that person on a correction of that under the Small Tracts Act, and that tract should be deleted.

Senator **Melcher**. Well, I can't tell you, Mr. Cargill, how delightful it was for somebody living on the Pine Ridge Indian Reservation, which is pretty hot and dry, to be able to go 70 miles, depending on which way you drove, to get to a very delightful area that was a lot cooler and a lot nicer. And it is just a happy place to be.

Mr. **Cargill**. And again, we don't object to the State park acquiring the land. It is simply the matter of all of the people paid for it when the United States acquired it, and we think all the people should receive consideration when it is transferred.

Senator **Melcher**. Well, that is a matter for Congress to think of.

Mr. **Zorinsky**. Mr. Chairman, might I just add, you know, a lot of times we get hung up by the books and what the sentences in it say, and where the i is dotted and where the t is crossed, and then when we see the billions of dollars that we give to the rest of the world, we will be sending millions to the earthquake victims in another country, who pay no taxes to this country.

And when we talk about 160 acres, to borrow it from our own country in a State where we don't have the opportunities to have the type of forest land that many of our other fellow States in this country have, at a time when agricultural economy is such that people in the Midwest try to stick closer to home and enjoy the amenities that God created for them in their own States, instead of traveling far, I think it is rather ludicrous for bureaucrats to indicate that all of a sudden, 160 acres of our own land we need to keep, as opposed to funneling billions into strangers' pockets throughout the world.

Senator **Melcher**. Well, you are absolutely right, Senator. This little cluster of pine trees in Chadron State Park is sort of like the foothills of the Black Hills, only it is geographically separated by about 70 miles in distance between them. Let's see, Chadron State Park is about 6 miles south of Chadron, and Chadron is about 58 miles from Hot Springs where you are into the Black Hills, and that is a very delightful little area.

It is a question of who's going to serve the public interest the best, and in this case, knowing the limitations, of Mr. Cargill and the Forest Service, they're not going to do much with it. They don't have the dough; they're not going to have the dough; and this is just a better use for it.

Mr. Cargill, we understand that you have to present the testimony of the Department specifically for the Forest Service, the way the law is. I think maybe the bill is a good amendment to the law in this particular instance, whether it's 160 or 175 acres.

Thank you very much.

[The prepared statement of Mr. Cargill on S. 360 follows:]

STATEMENT OF

GARY E. CARGILL
ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM,
FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands, Reserved Water and Resource Conservation
Committee on Energy and Natural Resources,
United States Senate

Concerning S. 360

October 4, 1985

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

We are pleased to join with the Subcommittee in its deliberation of S. 360, a bill to require the Secretary of Agriculture to convey 160 acres of National Forest System Land to the Nebraska Game and Parks Commission. The Federal land would be conveyed without consideration. Subsurface rights owned by the United States would be reserved. We note that the bill actually describes 175 acres of Federal land.

We recommend that the bill not be enacted unless it is amended to require payment of fair market value.

The land in question is a part of the Nebraska National Forest, Dawes County, Nebraska. It was acquired by the United States in 1938 under authority of Title III of the Bankhead-Jones Farm Tenant Act of 1937. If conveyed, the land would be used to expand camping facilities of Chadron State Park, as we understand.

We agree that conveyance to the Commission for this purpose would be desirable. We do not agree that conveyance should be without consideration. These National Forest lands belong to the entire Nation and the general public should benefit from conveyance to the State. In keeping with the President's direction that all conveyances of Federal land should be at fair market value, we strongly urge the Subcommittee to amend the bill to require payment for the tract. A preliminary estimate of value of the tract is $45,000. This estimate recognizes sales and exchange of similar land in the area and considers present and potential use of the tract.

We must also point out that there is a 2-acre encroachment by an adjoining private landowner on the east side of the tract. This involves a portion of a residence and results from an erroneous survey. We are negotiating a settlement of this encroachment under the provisions of the Small Tracts Act. Any conveyance to the State should exclude this 2-acre parcel.

It should be recognized that the Bankhead-Jones Act provides adequate authority to convey the land to the Commission, under the exchange authority in section 32(e). Such an exchange has been under discussion with the Commission since 1973. Several obstacles have been overcome in these discussions and in 1984 we felt we had a good chance of consummating the exchange. No discussions have been held with the Commission since last fall.

We believe that an exchange is preferable to legislation. If, however, the Subcommittee desires to pursue S. 360, we urge the adoption of our amendment.

That concludes my testimony. I would be happy to answer the Subcommittee's questions.

Senator MELCHER. Senator Hecht.

Senator HECHT. Senator Zorinsky, that was one of the shortest, most eloquent statements and persuasion that I've heard since I've been a U.S. Senator.

Senator ZORINSKY. Thank you, sir.

Senator MELCHER. The next bill we are going to take up just prior to Senator DeConcini's bill is my bill, which is S. 829. S. 829 is a bill that directs the Secretary of the Interior to convey Bureau of Reclamation land reserved for public purposes to the Huntly Project Irrigation District in Ballantine, MT. That comprises a small amount of acreage. I don't know that we have the total, and I'm aware of the fact that there is some question as to whether some of the lands that are being used for public purposes have been correctly identified and surveyed in the bill.

That can be taken care of, and we will ask the Department to do that.

These lands lie in several small plots reserved for the U.S. Bureau of Reclamation, which developed the land along the Yellowstone River Corridor. The Federal Government, when reserving these lands, dedicated some of the lands, and those are the lands we're talking about, for the exclusive use of the public.

The communities which have grown up around these parcels have energetically maintained these lands; they pick up trash after storms, cut the grass, but because these small towns were never incorporated, the deed of transfer from the United States to the Huntley Irrigation Project, cannot be legally made. And that is the need for this bill.

This bill would make it legal. The reason we have to have it is because incorportation of these communities is a specific requirement of the applicable law, the Town Site and Power Development Act of 1906. Since the Federal Government has in effect transferred all rights to the land except title, and since these communities have complied with the requirements of the Town Site and Power Development Act by using their time and money to develop these areas for the benefit of the public, it seems fair to convey all rights of ownership to a unit of government closer to the communities, in this case the local irrigation district.

This transfer of ownership has the support of the Bureau of Reclamation and the Huntley Project Irrigation District, the two units of local government directly involved. Additionally, the administrative cost associated with the preparation of title and legal descriptions will be assumed by the irrigation districts.

The unincorporated towns of Osborn, Ballantine, Huntley, Worden, and Pompeys Pillar have converted these reserved lands into ballparks and picnic areas and on one piece of land, a museum dedicated to traditional farming practices. Folks in these communities have asked for this legislation to make certain that these lands widely used by the communities and their visitors remain under the stewardship of the local people. There is no cost to the United States, except the administrative cost of okaying the preparation and finalization of the deeds, plus review of any necessary surveys. There may be some surveys.

Over the longer period of time, U.S. administrative costs, however incidental, will be reduced. Responsibilities for the use and care of the land will be locally handled and continue in the public interest.

Now, the Department is here.

Mr. Petty, you are Deputy Director for Administration, Bureau of Land Management, Department of the Interior.

Mr. **Petty**. Yes, sir.

Senator **Melcher**. Mr. Petty, I'm well aware of the fact that part or all of these plots of land are of the ceded strip, ceded land of the Crow Tribe, and I am well aware that when the land was ceded back by the Crow Tribe to the United States, that no minerals were transferred, at least no coal was transferred. I'm well aware of that, the coal underlying these plots of land, but we needn't worry about that because Federal law covers that, in that there can be no strip mining of that land for coal by the Crows or anybody else because the law states clearly that there will not be strip mining in this valley for these plots, and all of these plots of lands are in an alluvial valley floor.

So, as the law is now and will probably remain—at least I hope it does—there would be no strip mining. The Crows own the coal but they're not going to strip mine it and they can deep mine it, which is impractical, but they can't strip it. So that is sort of a moot point.

The point about whether we need more surveys for a clearer identification of just what are these lands, I am well aware of that, and I see that being no particularly big problem. I would just like to have it resolved very quickly.

Mr. **Petty**. Mr. Chairman, you've touched upon all of the problems we have with the bill, so I will just summarize them for you very quickly. One is the cost of the survey. The bill provides that the Government would be reimbursed $750. I'm sure the surveying will run several times that.

The other problem—you keep referring to the lands as plots, or plats, or pieces. That is our basic problem. We cannot identify the land. And in order to implement this bill, should it be enacted, we would have to have a description of the land. We do have an alternative which is available to us, which I think would get at the objective you are attempting to achieve.

If Reclamation would revoke their withdrawal or give up their withdrawal, then we could then work with these communities and the Bureau of Reclamation, to determine what lands we are talking about, and approach it through the R and PP Act. But our basic problem is trying to identify the lands. As the bill is written now, we do not really know which lands it would transfer.

Senator **Melcher**. Well, I understand that. And despite the fact that this has been talked about and discussed and reviewed, in and out by the Bureau of Reclamation people in the area, I can understand why the Bureau of Land Management doesn't have a correct description. But that can be corrected.

And this cost of it, as far as I'm concerned, ought to be undertaken immediately and not be waiting for us to make a line item in an appropriation bill.

Mr. **Petty**. No. We are talking about a relatively small amount. It will probably be in all five areas, $5,000 to $10,000. I cannot imagine it would be more than $10,000 to survey all five of those areas, so we are talking about a relatively small amount.

But we would have to determine what lands we are talking about, and that is what we need before we can really address title to the local communities there.

Senator **Melcher**. Well, I think that is a little more realistic than $750, but the facts are that all of the cost of treating these lands, other than just letting them be weed patches, all of those costs have been borne by these local people. There's no argument with that.

Mr. **Petty**. No.

Senator **Melcher**. So all of the cost involved in whatever survey you need ought to be your responsibility and ought to be done promptly. And I hope you are ready and willing to do that. And I hope we don't have to just fuss about this for another 6 months.

These lands can be quickly identified, quickly surveyed, whatever you feel is necessary. And you know, the Bureau of Reclamation is one bureaucracy, and then we have the BLM as another bureaucracy, and that's all the fault of Congress. We've got all of these bureaucracies created, and I'm not against them, but I am against delay.

Now, the Bureau of Reclamation should have had these platted. They must have a few surveyors somewhere. And get it done. This idea about fencing around about how much the costs are going to be is purely just delay because the costs are insignificant, and it just means that the people you've got on the payroll are going to do this for a while in the public interest, and we ought to get it done.

Mr. **Petty**. Well, Mr. Chairman, I can assure you that we will work with Reclamation and the irrigation district to try to define what we are talking about here and see what we can work out.

It appears to me that the R and PP Act would be a better approach, but no matter which way we go, we have to know what land we are talking about.

Senator **Melcher**. All right. I will listen to you for what's the best approach, but I'm not going to listen very long because I would like to see this bill cleared up, you know. I think probably you just looked at it recently, but I've been looking at it now for about 4 years, if my memory serves me correct, and nobody argues about what is the public interest and nobody argues about why it should be done. It is just a question of who should do it.

And I am a little bit sorry that I didn't tell the Bureau of Reclamation people and the local people, clear this with BLM 3 years ago, because I think we would have this all identified now if we had gone that route.

Mr. **Petty**. Although Cadastral Survey comes directly under my jurisdiction, I was not aware of this until this week, Senator.

Senator **Melcher**. Well, it's partially my fault, I guess, because I should have recognized that, despite what the Bureau of Reclamation was intending to do and wanting to do, it doesn't end quite at that level, that they do have to be properly identified.

And if you will do it—and I think you will—or see that it is done, I think we can clear this up fairly rapidly.

Mr. **Petty**. Yes. I will be happy to call our State Director in Montana and have him get together with Reclamation and see if we can't address this issue. Of course, we doubt we are going to be able to get in there and survey within the next few months.

Senator **Melcher**. Thank you very much.

[The prepared statement of Mr. Petty on S. 829 follows:]

STATEMENT OF ARNOLD E. PETTY, DEPUTY DIRECTOR, MANAGEMENT SERVICES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 829, A BILL "TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS WITHDRAWN BY THE BUREAU OF RECLAMATION FOR TOWNSITE PURPOSES TO THE HUNTLEY PROJECT IRRIGATION DISTRICT, BALLANTINE, MONTANA."

I appreciate the opportunity to discuss with you today S. 829, a bill which would direct the Secretary of the Interior to convey certain described lands to the Huntley Irrigation District, a municipal corporation of the State of Montana. The only compensation allowed would be up to $750 for administrative costs associated with preparation of the legal title and the legal description. The lands to be conveyed would be any lands withdrawn by the Bureau of Reclamation and reserved for townsite and public purposes under the provisions of section 3 of the Act of April 16, 1906, in the unincorporated townsites of Osborn, Ballantine, Huntley, Worden, and Pompeys Pillar in Montana.

Section 2 of S. 829 describes the lands that would be conveyed under the bill. Section 3 of the bill would require that lands conveyed under S. 829 continue to be reserved, maintained and utilized for park and other public purposes. It further provides that if the intended uses are no longer maintained on any of the described tracts, the title to the subject tract, together with all improvements, would revert to the United States.

We would not object to enactment of S. 829 if it is amended to address our concerns.

We have been advised that the Bureau of Reclamation has no need for these lands for project purposes. Local citizens have an investment in park development, and it is our understanding that they want to protect their past and any future investments in that park development by acquiring the land in question. Although this could be accomplished administratively under existing laws, S. 829 would provide the same result should Congress decide to enact the bill.

One problem with S. 829 is that we can not determine specifically what lands are covered by some of the descriptions in the bill. This would make it difficult to identify the lands to be conveyed. In addition, it appears that some of the lands described in section 2 of the bill do not meet the requirements of section 1 and could not be conveyed pursuant to this Act. The Department's report will spell out these problems in more detail. We will be happy to work with this Committee and the Bureau of Reclamation to identify the lands intended to be covered by the bill.

Before conveyance documents can be prepared, several of the areas proposed for conveyance will require supplemental or survey plats to establish legal descriptions. Our costs to prepare each supplemental plat would be approximately $500 per supplemental plat. Survey plats would cost considerably more to prepare. S. 829 limits administrative costs for these purposes to $750 which is insufficient to cover our anticipated costs. The bill should be amended to require the grantee to compensate the Secretary of the Interior for the cost of the conveyance, prior to the transfer of title to the lands.

S. 829 does not mention minerals, although all these lands are in the Crow ceded areas. As a result of legislation enacted in 1958, the minerals under these lands are held in trust by the United States for the benefit of the Crow Tribe. The bill should reflect that the United States will continue to hold the minerals in trust for the Crow Tribe.

This concludes my statement. I will be pleased to respond to any questions you may have.

Senator MELCHER. Thank you very much. I want to ask that all of the administration witnesses provide for the record their estimate of the administrative cost of the transfer in all of these bills, and if such costs are provided for in the bills, are these costs sufficient? And furthermore, to provide estimates of fair market value, if they are not provided.

And that is for Mr. Cargill and Mr. Petty both.

Mr. PETTY. For this particular bill, Senator, I have anticipated that. But we cannot supply value on this particular bill, since we do not know what land we are talking about.

Senator MELCHER. That's right. We understand that, too, and I thank you very much.

Thank you, Mr. Chairman.

[The information follows:]

DEPARTMENT OF AGRICULTURE

S. 360.—$1,000.
S. 565.—$5,000.
S. 567.—$1,000.

DEPARTMENT OF THE INTERIOR

Our estimates of the administrative costs and fair market value with regard to S. 829, S.1503 and S. 1625 follow:

S. 829.—The administrative costs of up to $750 provided in the bill would not be sufficient. Several areas would require supplemental or survey plats to establish legal description before conveyance documents could be prepared. Our costs to prepare each supplemental plat would be approximately $500. Survey plats would cost considerably more to prepare. Since we cannot determine which lands are covered by some of the descriptions, we are unable to provide an accurate estimate of the administrative costs. Fair market value of the lands cannot be provided inasmuch as they cannot be precisely identified.

S. 1503.—The only administrative costs associated with this bill would be incurred in our reviewing the list of lands submitted by the States, and publishing the list in the Federal Register (currently $390 per page).

Because the lands have not been identified and there are no public lands involved, we do not know the fair market value of the lands.

S. 1625.—The estimated administrative cost for conveying the lands in accordance with S. 1625 would be $395. This would include processing a reconveyance of the title, final certificate and patent preparation and related records and notation actions. The cost of an appraisal of the lands is estimated to be between $2,000 and $3,000. The fair market value of the 467.33 acres is estimated to be $3,600,000.

Senator **Domenici** [presiding]. First, let me ask if there are any witnesses here who are here exclusively and solely for Senate bill 304, Senate bill 446, Senate bill 1690—if anybody is here just for those bills? We are going to continue those three bills and not take the testimony today.

I assume the Interior witnesses are here on a number of bills, but if there is anyone here just on that, we are just not going to do it today. I have not had enough time to look at it as carefully as I should myself, and I prefer to have a little more time. I don't know when—and I apologize; it may be 1 month; it may be 2 months; it may be 3 weeks. But we will give you plenty of notice, and I thank you very much.

As I understand it, we have Senate bill 1503 referenced to California-Nevada boundary; we also have two bills that the Senator from Arizona is concerned with—Senate bill 565, with reference to the town of Payson, AZ; and Senate bill 567 regarding Flagstaff.

Senator Hecht, were you here merely to testify or to participate in the hearing this morning? Would you prefer to go next or to let the Senator from Arizona proceed next?

Senator **Hecht**. What is your time frame, Dennis?

Senator **DeConcini**. Mr. Chairman, like everybody else, we all have other places to go, but believe me, I certainly want to hear the Senator from Nevada's testimony, seeing as he's going to be voting on my bills. [Laughter.]

I would be more than happy to wait.

Senator **Hecht**. Well, I will try to be brief.

Senator **Domenici**. Let's proceed.

STATEMENT OF HON. CHIC HECHT, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator **Hecht**. Thank you, Mr. Chairman. I have cosponsored two of the bills to be considered by the subcommittee in hearings this morning—S. 1625 and S. 1503. S. 1625 conveys 470 acres of land to the University of Nevada for use as a research and development center. Since the bill occupies less than a page of actual text, I will keep my remarks brief as well.

The land will be used to site the Allessandro Danclini Research Park. This research park will be a joint project of the Desert Research Center of the University of Nevada and the private sector. I encourage the subcommittee to quickly report this simple bill.

S. 1503 is slightly longer, Mr. Chairman, but my statement will be equally brief. The bill addresses the fact that when the Supreme Court redrew the California-Nevada boundary in 1982, a number of innocent private landowners suddenly found, to their surprise, that the wrong State had given them title to their land.

This bill does not affect public land. It has been approved by the California and Nevada Attorney General. It has been developed in cooperation with State and Federal land management agencies. This bill simply helps those innocent bystanders with a boundary dispute. It clears any possible cloud from the title of their land that might otherwise result from the Supreme Court decision.

Once again, I recommend the subcommittee give this bill prompt and favorable consideration.

This concludes my comments. Thank you, Mr. Chairman.

And we have Dr. Gold from the university. Do you have a statement, Doctor?

Senator DOMENICI. Doctor, before you do that, let me see if I can do this in a slightly different manner, if you don't mind, Senator Hecht.

Senator HECHT. Sure.

Senator DOMENICI. Senator Laxalt has prepared remarks to be inserted in the record on S. 1503 and S. 1625, the two which you have just testified about, and supports Senator Hecht, and they will be made a part of the record.

[The prepared statements of Senator Laxalt follow:]

Paul Laxalt

STATEMENT OF
SENATOR PAUL LAXALT
ON S. 1503
SUBCOMMITTEE ON PUBLIC LANDS
OCTOBER 3, 1985

Mr. Chairman:

Thank you for the opportunity to submit this statement in behalf of S. 1503, the Nevada-California quiet title act.

The purpose of the bill is to remove any cloud on lands which have been transferred to third parties over the years from lands originally granted to the States. Some 12,000 acres acres of property running alongside the border has been called into question as a result of the Supreme Court's decision, California v. Nevada 1980 447 U.S. 125, which settled the boundary line. The bill does not address any remaining disputes about State land selections.

The State Attorney Generals of both Nevada and California support the bill, I understand, as do the State Land Commissions and Land Title Associations of both States.

Mr. Chairman, I stress the importance of removing further hardship to private property owners whose property has a legal cloud on its title as a result of the litigation between the States. This bill will do that without any impact on the federal government.

I ask the Committee to give the measure careful and favorable attention.

Paul Laxalt

STATEMENT OF
SENATOR PAUL LAXALT
ON S. 1625, TO CONVEY CERTAIN LAND TO THE
UNIVERSITY OF NEVADA
SUBCOMMITTEE ON PUBLIC LANDS
OCTOBER 3, 1985

Mr. Chairman:

I appreciate this opportunity to express my support for S. 1625, a bill to authorize the conveyance of 470 acres in Nevada to the University of Nevada as a research park.

The property involved is north of Reno near the present Desert Research Institute and is known as the Dandini Research Park. The tract was granted to the University in 1972 under the Recreation and Public Purposes Act and subleased to the DRI Research Foundation whose purpose is to develop a system similar to the University of Utah's Research Park, the North Carolina Triangle and the Stanford Research Park.

This development scheme has been followed previously and brought about important research activities elsewhere, involving the participation of private companies. It is my understanding that some question has been raised as to whether the R&PP Act will include such activities. I believe it is important that this research park be developed and is the motivation for my introduction of this bill.

The purposes of the Research Park are well within the purview of their academic setting and conform to public policy. I believe the federal interest will be well served by passage of this legislation, and that the questions raised in connection with the R&PP Act should be settled affirmatively.

I strongly urge the Committee's favorable action on S. 1625.

Senator DOMENICI. Now, we have only two outside witnesses, Dr. Gold with reference to S. 1625, and Arnold Petty, Deputy Director of the Bureau of Land Management, Department of the Interior. So why don't we proceed with Senator DeConcini on his matters, and then we will take you, Dr. Gold. And I assume your testimony is brief.

You will be next, and then we will take the Department.

Senator DeConcini, you are welcome here and we look forward to your testimony.

STATEMENT OF HON. DENNIS DECONCINI, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator DECONCINI. Mr. Chairman, thank you for your arrangements and courtesy, as usual. And, quite frankly—and Senator Hecht, for taking the time from your busy schedules to hold the hearings on these two bills, S. 565 and S. 567, conveying certain forest communities in Arizona.

As you know, Mr. Chairman, over 75 percent of our land in Arizona is in type of public ownership. We greatly enjoy our national parks, national forests, and other lands but they do present certain logistical problems that I'm sure the Senator from New Mexico can appreciate.

While we have existing authorities on the books that allow communities to purchase Federal lands for public purposes or exchange community-owned lands for Federal lands, the present authorities do not address how communities will pay for these lands when the tax bases are very small.

Mr. Chairman, this is the reason I've sponsored the legislation that is before the committee today. I am convinced the only way the town of Payson and the city of Flagstaff can gain ownership of the small amount of Federal lands is if the land is granted to the towns without consideration.

S. 565. This legislation conveys 31.14 acres of Forest Service land to the town of Payson for use as a public park only, with a reversion clause in the event that it should ever be used for anything else. The land is presently being utilized by the town under a 25-year special use permit issued by the Forest Service.

Payson is interested in acquiring title to this land because renewal of forest permits is never certain and very cumbersome and, of course, the possibility of not having the permit. Further, these permits place restrictions on the use of the lands, park services, and city and taxpayer services. The town of Payson is largely surrounded by the National Forest and cannot expand to provide basic public services without seeking Federal lands.

The town has already devoted what little resources it has to purchase forest property when it has had those dollars. The land to be conveyed to Payson is isolated Forest Service land. It is surrounded by private property and other town property, so I think it makes good sense that this be accomplished.

The Flagstaff legislation, S. 567, differs from the Payson legislation, in that we are amending the law adopted by the Congress in 1980, which gives the city of Flagstaff the right of first refusal to purchase approximately 132.4 acres of Forest Service land for recreational purposes, with also the reversion clause included therein. That property, known as Thorpe Park, has been under special use permit from the Forest Service to the city of Flagstaff for the past 50 years, obviously for good planning from the city's point of view and the citizens there, that this will continue to be used only for recreational purposes. It makes, again, good sense, Mr. Chairman, to consider transferring that land to the city for those purposes only for a park.

Thorpe Park is the largest recreational area within northern Arizona. The city of Flagstaff has made substantial improvements to the land within this park and plans to expand facilities within the park at a future date. The Forest Service, on the other hand, has not made improvements to the land and does not have any use in mind for the land, nor do they have the funds to do anything with it.

The paperwork generated from this type of permit is substantial. And again, we would like to make life a little bit easier for those of us who live in States that have a very small amount of private land and are growing.

Mr. Chairman, I recognize that in the cosmic sense of things, legislation of this nature may not be a priority when you look at our national problems and world issues. However, both communities affected by the legislation believe these bills are priorities for them. The bills directly impact the day-to-day lifestyle in these communities.

Mr. Chairman, you will be hearing later today—and I want to thank you for the time—from the town of Payson and the city of Flagstaff. Mayor Neil Reynolds and chief of police David Wilson of Payson, and Chris Bavasi, city councilperson of the city of Flagstaff will be here to present testimony.

I hope the committee will look seriously at both of these land conveyance measures. This committee, and particularly the chairman and the members thereon, have been extremely considerate of the needs of many Western States and other States and again I thank you, Mr. Chairman, for expediting this bill.

[The prepared statement of Senator DeConcini follows:]

Statement by Senator Dennis DeConcini
on Legislation to Convey Forest Service Lands
to the Town of Payson and the City of Flagstaff

October 4, 1985

Mr. Chairman, I want to thank you for making time in your busy schedule today to hold this hearing on two bills which I introduced, S. 565 and S. 567, conveying certain Forest Service lands to communities in Arizona.

As you know, Mr. Chairman, approximately 75 percent of our land in Arizona is in some type of public ownership. While we greatly enjoy our national parks, national forests and other lands, they do present certain logistical problems for communities which need to expand to provide the services the public demands. While we have existing authorities on the books that allow communities to purchase Federal lands for public purposes or exchange community-owned lands for Federal lands, present authorities do not address how communities will pay for these lands when their tax bases are very small. Mr. Chairman, this is the reason I sponsored the legislation that is before the Committee today. I am convinced the only way the Town of Payson and the City of Flagstaff can gain ownership of federal lands is if the land is granted to the towns without consideration.

Turning to S. 565, Mr. Chairman, this legislation conveys approximately 31.14 acres of Forest Service land to the Town of Payson for use as a public park. The land is presently being utilized by the Town under a 25 year special use permit issued by the Forest Service. Payson is interested in acquiring title to this land because renewal of Forest permits is never certain. Further, these permits place restrictions on the use of the lands which hinder long-term planning and security for the community. The Town of Payson is largely surrounded by the national forest and cannot expand to provide basic public services without seeking Federal lands. The Town has already devoted what little resources it has to purchase Forest property for other purposes. It simply cannot afford to purchase the park property it needs at any time in the near future.

Mr. Chairman, the land to be conveyed to Payson is isolated Forest Service land. It is surrounded by private property and other town property. I think it would be in the best interest of both the Forest Service and the community to deed that land to the Town of Payson. To my knowledge, the Forest Service does not have any other immediate use in mind for the property.

The Flagstaff legislation, S. 567, differs from the Payson legislation in that we are amending a law adopted by the Congress in 1980 which gives the City of Flagstaff the right of first refusal to purchase approximately 132.4 acres of Forest Service land for recreational purposes. That property, known as Thorpe Park, has been under special use permit from the Forest Service to the City of Flagstaff for the past 50 years. While the City would like to purchase the land to continue recreation in northern Arizona, it would be difficult for them to pay fair market value for the land and then pay additional sums to develop the property for recreation use.

Thorpe Park is the largest recreational area within northern Arizona. The City of Flagstaff has made substantial improvements to the land within this park and plans to expand facilities within the park at a future date. The Forest Service, on the other hand, has not made improvements to the land and does not have any uses in mind for the land presently. While the City could continue to utilize this park under special use permit, I believe it would be beneficial for both governments to deed the land to the City. The paperwork generated from this type of permit and the accompanying restrictions continue to place a burden on both entities.

Mr. Chairman, I recognize that in the cosmic sense of things legislation of this nature may not be a priority when you look at our national problems and world issues. However, both communities affected by the legislation believe these bills are priorities for them. The bills directly impact day to day life in these communities.

You will be hearing today from representatives from both the Town of Payson and the City of Flagstaff. They can explain better than I why this legislation is so important. Mr. Chairman, I hope the Committee will look seriously at both of these land conveyance measures and do everything it can to expedite a favorable recommendation to the full Senate.

Again, thank you Mr. Chairman and the staff for all of your assistance in holding this hearing.

Senator DOMENICI. Thank you.

Do you have any questions, Senator Hecht?

Senator HECHT. No. Thank you, Mr. Chairman.

Senator DOMENICI. Thank you very much, Senator DeConcini.

Senator DECONCINI. Thank you, sir.

Senator DOMENICI. Mr. Wilson and Mr. Bavasi, do you have a time problem? Can you be here for another 30 or 40 minutes?

Mr. WILSON. Sir, we will be here as long as necessary.

Senator DOMENICI. Now we will hear from Dr. Gold on Senator Hecht's and Senator Laxalt's bill.

STATEMENT OF DR. ALBERT GOLD, VICE PRESIDENT, FINANCE AND ADMINISTRATION, DESERT RESEARCH INSTITUTE, UNIVERSITY OF NEVADA SYSTEM, RENO, NV

Dr. GOLD. Mr. Chairman, I am grateful for the opportunity to appear before you this morning. I have submitted a written statement to the committee, and wish to add to it only a few very brief remarks.

Let me emphasize particularly the importance of the conveyance contained in S. 1625 not only to the University of Nevada system and the Desert Research Institute in particular, but to Nevada's very earnest and dedicated effort of this period to diversify its economic base and particularly to develop high technology industry within the State.

I have appended to my written statement a copy of a report by the Nevada Commission on Economic Development, entitled Nevada State Plan for Economic Diversification and Development, and it contains the order of six or seven very specific citations of the State's interest and the centrality of the plans for the development of the research park on Bandini Blvd.

Let me note that what S. 1625 proposes is an undertaking essentially identical in spirit to that undertaken successfully over the last 15 years at the University of Utah Research Park in Salt Lake City. Research parks centered on major university research facilities seem to be the ones that succeed and indeed if the University of Utah Park, which I just had the privilege of visiting a few days about a month ago, is any example, with its currently 44 resident companies, the State of Nevada over the next decade under S. 1625 has a great deal of promise within its grasp, and I earnestly ask your support.

I would be delighted to respond to any questions you might have.

[The prepared statement of Dr. Gold follows:]

Prepared Statement of Dr. Albert Gold, Vice President for Finance and Administration, The Desert Research Institute of the University of Nevada System, Reno, Nevada on S 1625 to Authorize Conveyance of 470 Acres in Nevada to the University of Nevada System for Use as a Research Development Park

Mr. Chairman, Members of the Committee, Ladies and Gentlemen:

I appear here today both on behalf of the Desert Research Institute, the research arm of the University of Nevada System, and on behalf of the State of Nevada.

The Desert Research Institute is an organization of national eminence in its chosen field of the environmental and energy related sciences. Of the approximately $12 million per year's worth of research it performs, two-thirds is under contract to agencies of the Federal government, the remainder being on behalf of private industry. The Institute is a division of the University of Nevada System reporting to its Board of Regents and as such receives a modest annual operating subvention from the state amounting to some 8% of its total operating revenues. The Institute unlike many older such organizations such as the Battelle Memorial Institute has no endowment.

Given the intrinsically volatile nature of conducting sponsored research on a nonprofit basis, the Institute is seeking to stabalize its operations and underwrite its growth. In this regard, it has acquired the land known locally as the Dandini Research Park, the subject of the current legislation, with the long-term intent of operating it as a research park for industrial and other users. In addition, both the Desert Research Institute and the University System's Truckee Meadows Community College are now headquartered on the site. The proposed legislation will over the long-term permit proceeds from the lease of this land to function as an endowment for the Institute. It will also provide it with an environment of other R & D organizations with which it can fruitfully interact and collaborate bringing to the State of Nevada a growing seed of high technology enterprise. The Institute and the University System clearly will be enormously well served by the conveyance.

In the last recession of the early 80's, the State of Nevada realized, perhaps for the first time, that its narrowly based economy was not recession proof. Responding to this reality, it has begun a concerted effort to diversify its economic base. One key element to such a diversification is the cultivation of high technology industry. Historic evidence shows that high technology industry has taken root best and most successfully in research parks intimately associated with university-based research organizations. I mention Research Triangle Park in North Carolina, Stanford Industrial Park in California, and the University of Utah Research Park in that state to cite only a few instances.

Nevada's Commission on Economic Development has within the last year released its "Nevada State Plan for Economic Diversification and Development." This plan, a copy of which is appended to this testimony, repeatedly emphasizes the high priority of the Desert Research Institute's activities and in the development of the Dandini Research Park in particular for the development and growth of the high technology industrial base in the state.

Hence, it is both from the viewpoint of the Desert Research Institute and the Unviversity System on the one hand and from the economic health of the State of Nevada on the other that I urge your support for the current bill.

Thank you.

AG/ams
9/25/85

Senator **Domenici**. The report that you have attached to your statement, how big is that report? We won't make it a part of the printed record, but we will incorporate it in the subcommittee files.

I have no questions.

Senator Hecht, do you have any questions?

Senator **Hecht**. No. Just to mention in the report, I think they should be brought up on the tremendous work they are doing, and two-thirds of the work they are doing is for the Federal Government in research projects.

Senator **Domenici**. All right. I understand, then, that other than the Federal witness, that is the extent of the testimony on your bill.

Senator **Hecht**. That is correct, Mr. Chairman. That is correct, isn't it, Dr. Gold?

Dr. **Gold**. Yes.

Senator **Domenici**. Thank you very much, Dr. Gold. We appreciate your being here.

Dr. **Gold**. Thank you.

Senator **Domenici**. Now we will take Arnold Petty and Mr. Cargill, if you will both come up and take the witness table. We will go with Mr. Petty on all of the bills that are remaining, except the three that I have asked for the continuance on.

Mr. Petty, you will go first, and then Mr. Cargill.

STATEMENT OF ARNOLD E. PETTY, DEPUTY DIRECTOR, MANAGEMENT SERVICES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR ON S. 1625

Mr. **Petty**. Mr. Chairman, we have submitted a statement for the record and I will just summarize the issues as we see them. We are talking about 460 acres that the University of Nevada would like to have transferred in fee simple to them. All the lands are currently under an R and PP patent to the university for research purposes. It is being used by the Desert Research Institute and it is a campus for the Western Nevada Community College.

The intent of this bill is to transfer the title to the land so that it can then be sublet or used by a commercial enterprise for research and development. We believe it would be totally inappropriate to use Federal lands for this purpose. The lands can be sold. If they would like to go into a commercial venture, we would be perfectly willing to sell them the land.

That is basically our problem with this bill. The land is right there in Reno. It is very valuable. And in attempting to respond to Senator Melcher's request earlier to put a value on it, I will have to say we do not have a value on this piece of land. It has not been appraised, simply because there has not been any need to, but we are confident that, should it be appraised, it is worth several million dollars.

And we would be reluctant to turn over to the college, without charge, a piece of land that valuable which would then be used for commercial purposes.

[The prepared statement of Mr. Petty on S. 1625 follows:]

OCT 4 1985

STATEMENT OF ARNOLD E. PETTY, DEPUTY DIRECTOR, MANAGEMENT SERVICES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, COMMITTEE ON ENERGY AND RESOURCES, UNITED STATES SENATE, ON S. 1625, A BILL "TO AUTHORIZE THE CONVEYANCE OF 470 ACRES IN NEVADA TO THE UNIVERSITY OF NEVADA FOR USE AS A RESEARCH AND DEVELOPMENT CENTER."

I appreciate the opportunity to discuss S. 1625 with you today.

S. 1625 would direct the Secretary of the Interior to convey at no cost approximately 467 acres of land to the University of Nevada, notwithstanding the Recreation and Public Purposes Act, in order to create a research and development center.

We are opposed to enactment of S. 1625.

The lands described in S. 1625 have already been patented. All of the land involved in this bill has been patented to the University of Nevada under the Recreation and Public Purposes Act, with 158.22 acres of the total acreage being patented on July 17, 1972, and 309.11 acres being patented on August 29, 1974. Both parcels have the same master plan of development. The lands are being used as a research facility for the Desert Research Institute and a campus for Western Nevada Community College.

The University of Nevada requested a change in the use of both parcels. The University's proposed development plan involved leasing the lands to private research and development interests for their principal use. The Bureau of

Land Management and the Department's Office of the Solicitor concluded that use of lands for a research center developed by and for private companies would be inconsistent with the Recreation and Public Purposes Act. Development of the research park would transfer control of the lands to private companies for their use, and such use would not be public and open to all. The Recreation and Public Purposes Act provides for change of use only with the consent of the Secretary of the Interior and then only to a use for which the grantee or transferee could obtain a conveyance under the Recreation and Public Purposes Act. Using the lands for a research park to be subleased to private contractors is an inappropriate use under the Recreation and Public Purposes Act. We do not believe it would be appropriate to relieve the University of the reverter provision unless it paid fair market value for the property. Since the University apparently wants to use the lands for commercial purposes - albeit that purpose does involve private research as well as development, it should acquire the property in a manner that allows such use - that is, by payment of fair market value.

The Recreation and Public Purposes Act requires that each patent contain a reservation to the United States of all mineral deposits in the lands conveyed together with the right to mine and remove the minerals. S. 1625 does not have a similar provision. If this legislation is enacted, we think such a provision is essential to assure that the public interest is served. There is certainly no basis for granting the minerals at no cost.

S. 1625 provides for conveyance of the lands at no cost. Even under the Recreation and Public Purposes Act where there is unrestricted public use, there is at least a nominal charge for the lands to cover the administrative expenses of the conveyance. This conveyance would not be for unrestricted public use and therefore there should not be a discount conveyance.

S. 1625 does not mention valid existing rights. Any transfer such as this should protect any valid existing rights.

This concludes my statement. I will be pleased to respond to any questions you may have.

Senator DOMENICI. Senator Hecht.

Senator HECHT. Dr. Gold, do you have any response to that?

Dr. GOLD. The land in question was conveyed under the R and PP Act in approximately 1970, essentially contemporaneously with the conveyance of the site of the University of Utah research parklands in Salt Lake, both with the same purpose, the chief distinction being the historical one. The good people of our neighboring State to the east vigorously and immediately undertook the development for that purpose at the University of Utah Research Park; whereas the Bandini Research Park, except for the development of university facilities, namely the Desert Research Institute and what is now called the Truckee Meadows Community College, was not undertaken and not seriously contemplated until the last year or two.

Not only is there a short-term benefit to the university from such development but, of course, under the provisions of land leases for the development of non-university facilities, that interim use ultimately in fact serves in the long term to provide expansion facilities for the university.

I believe the precedent of the public purpose of such a development has been very, very clearly and firmly established in the case of Salt Lake City, and that the current legislation before us simply serves to underscore, clarify it, and in this instance institutionalize that precedent.

Senator HECHT. Thank you, Doctor. Thank you.

Senator DOMENICI. Thank you very much, Senator Hecht.

Now, Mr. Petty, you also have to testify on Senate bill 1503. And, incidentally, your statement will be made a part of the record, the one you referred to.

STATEMENT OF ARNOLD E. PETTY, DEPUTY DIRECTOR, MANAGEMENT SERVICES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR ON S. 1503

Mr. PETTY. Well, Mr. Chairman, as we heard earlier today, the purpose of S. 1503 is to remove the cloud on land that has been passed into private ownership by either the State of California or the State of Nevada. I think there are about 12,000 acres involved in some six to eight different locations up and down the California-Nevada border.

This problem was created when the Supreme Court established the boundary between the two States. We agree completely with the intent of this bill. However, we have one major concern, and we ask the committee to seriously consider amending this bill to specifically provide that there will be no indemnity or in-lieu selections rights created for either the State of California or the State of Nevada.

I have been asked or been advised to tell the committee that we will be compelled to recommend a veto on the bill, should it pass without that provision in there. The administration feels very, very strongly about that. As long as we limit it to removing the cloud to these private parties, we are in total agreement.

That is our basic problem, Mr. Chairman.

[The prepared statement of Mr. Petty on S. 1503 follows:]

OCT 4 1985

STATEMENT OF ARNOLD E. PETTY, DEPUTY DIRECTOR, MANAGEMENT SERVICES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, COMMITTEE ON ENERGY AND RESOURCES, UNITED STATES SENATE, ON S. 1503, A BILL "TO CLEAR TITLE TO CERTAIN LANDS ALONG THE CALIFORNIA-NEVADA BOUNDARY."

I appreciate the opportunity to discuss with you today S. 1503.

S. 1503 would validate title to certain lands that the Federal Government granted to the States of California and Nevada on or before July 7, 1980, which now fall within the other State as a result of the boundary established by the U.S. Supreme Court in 1980 in the case of California v. Nevada. S. 1503 would be limited to those lands conveyed to a third party by either State.

Section 5 of S. 1503 would direct the Secretary of the Interior, in coordination with the States of California and Nevada, to develop a list of the property affected by the bill. It provides that the list could be amended from time to time, and requires that the list and its amendments be published in the Federal Register.

We would not object to enactment of S. 1503 if amended to address our concerns.

We support the concept of S. 1503, that is, to validate title to tracts of lands transferred by the United States to California and Nevada and later transferred by those States to others, through legislation rather than litigation. However, we have some concerns with S. 1503 that we believe must be addressed.

As S. 1503 points out, there are a number of tracts along the California-Nevada border which were thought to have been granted by the Federal Government to California, and others to Nevada. Subsequently those tracts were conveyed by the named State to third parties. However, as a result of the Supreme Court decision, these tracts ended up not being within the State to which the Federal Government thought they had been granted. Thus, the title to these tracts now is clouded because it comes from a State which no longer falls within the chain of title. Litigation or administrative proceedings to quiet title against the United States would most certainly be an expensive and time consuming proposition for all involved parties. Legislation is appropriate. Our problem is with section 5 of the bill.

Section 5 of S. 1503 provides a means for identifying the lands in question. It requires that a list be published in the Federal Register by the Secretary of the Interior. The list could be amended from time to time. We have concerns about requiring the Secretary to develop a list within 6 months of enactment of S. 1503. The Secretary can only develop the list if information is supplied by the States. We have been trying, for much longer than 6 months, to identify the lands, in coordination with the States of Nevada and California, and have been unable to do so. If enacted, we believe the bill should be amended to provide that the list be published within 6 months after receipt by the Secretary of a list that has been approved by both States.

We also question the open-ended nature of section 5. S. 1503 should apply only to tracts presently identified.

One alternative might be to amend section 5 of S. 1503 to provide for the development of a list of patents issued by each State to third parties rather than for "a list of the property." This alternative would provide the link needed in the official records of each State to remove the cloud on the title of lands held by third parties as defined in sections 2 and 3 of S. 1503, and would serve to define the lands on which title is cleared by this bill.

Another matter that we suggest be considered is the possibility that enactment of S. 1503 could raise the issue of indemnity selections. A State could claim additional public lands within its borders as indemnity for its alleged loss of public lands, the title to which would be quieted to persons who hold lands granted to them when the lands were thought to be in one State but which are, as a result of the Supreme Court decision, in the other State. We recommend the addition of a section to S. 1503 that would prevent any claim or action against the United States by any entity for in lieu selections as a result of enactment of this bill.

This concludes my statement. I will be pleased to respond to any questions you may have.

Senator HECHT. Mr. Chairman.

Senator DOMENICI. Senator Hecht.

Senator HECHT. I feel that our staff can work out this problem. I don't see a problem with that. I mean that is not insurmountable by any means.

May I ask another question of Mr. Petty?

Senator DOMENICI. Senator Hecht.

Senator HECHT. On the California-Nevada border, your statement questions whether the lands have been identified. I have a set of the maps that have been prepared using BLM title plats and parcel descriptions contained in a May 20, 1980 memorandum from California BLM director Ed Hastings to Director Burford. These maps were prepared by the California State Lands Commission and have been endorsed and approved by the State of Nevada, Nevada Land Title Association, and the California Land Title Association.

With regards to S. 1503, if these lands were indicated using a map, would that be sufficient so that we would not need a list of the property or a list of the patents?

Mr. PETTY. It might be, Senator Hecht. But I believe we got a list—the list that we were talking about the day before yesterday—so I think we can go with the list also. If we publish those lists in the Federal Register, at least, you know the lands affected by this bill. This is the second time the same issue has been before this committee.

In 1983 I think it came up before, and our problem then was just how do we get identification of the lands involved out in public and make it known and try to remove any cloud of this title. And we thought by publishing the list in the Federal Register—which only the Federal Government could do and which is why we are volunteering or offering to do it—that this would be the best way to remove that cloud.

Senator HECHT. That would be fine if you could move quickly.

Mr. PETTY. As the language provides, 6 months but I hope it wouldn't take 6 months. I did explore why it would take any time at all, and I was told that we would at least have to do a little verification work before we could publish the list, but surely it will not take us more than 6 months. We can do it within that 6-month period.

Senator HECHT. Well, then maybe perhaps you can work with the staffs of Senator Laxalt and myself and we will work out the best solution on this.

Mr. PETTY. Our biggest problem that we had foreseen when we first saw the bill, I think has been resolved. We had difficulty getting these lists that were being prepared in the field by both the States and BLM's State offices, and apparently that has been done now. We have not had an opportunity to study them here in the front office.

Senator HECHT. That should do it, Mr. Chairman.

Senator DOMENICI. Thank you very much, Senator Hecht.

As I understand now, Mr. Petty, there are no remaining bills that you have testimony on; is that correct?

Mr. PETTY. No, sir; that does take care of me.

Senator **Domenici**. We have no further testimony that we would ask of you, so you may proceed to do whatever you were going to do for the rest of the morning.

Now, we would like to put the statements of Pamela Wilcox, administrator of the Department of Conservation and Natural Resources of the State of Nevada in the record; Kenneth Cory, chairman of the California State Lands Commission; John Van de Kamp, attorney general of the State of California; and Lawrence E. Green, executive vice president and counsel, California Land and Title Association.

Those statements will be made a part of the record at this point.

[The prepared statements follow:]

Division of State Lands
State Land Office
State Land Use Planning Agency
(702) 885-4363

Address Reply to
Division of State Lands
201 S. Fall Street
Capitol Complex
Carson City, Nevada 89710

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
Division of State Lands

October 2, 1985

The Honorable Malcolm Wallop
Chairman
Public Lands, Reserved Water and
Resource Conservation
Senate Energy and Natural Resources
Committee
SD-308 Dirksen Senate Office Building
Washington, D.C. 20510

ATTN: Mr. Tony Bevinetto

RE: S 1503 and HR 3185

Dear Chairman Wallop:

In our letter of September 30, 1985, the State of Nevada Division of State Lands supported S 1503 and HR 3185 but suggested the amendment of Section 5.

Enclosed for your consideration is draft language developed by the States of Nevada and California to amend the bill. Amendment No. 2 adequately addresses the concerns we expressed in our letter of September 30, 1985, and has our strong support. Amendment No. 1 is offered to make it clear that neither state will gain anything from this legislation, and is acceptable to us.

These amendments are also supported by the California and Nevada Land Title Associations.

We will support S 1503 and HR 3185 with these amendments. Please feel free to contact us with any questions.

Sincerely,

P. B. Wilcox

Pamela B. Wilcox
Administrator

I concur.
BRIAN McKAY
Attorney General

By: A. Scott Bodeau
A. Scott Bodeau
Deputy Attorney General

PBW/mc

Enclosure

AMENDMENTS TO S. 1503 (LAXALT)

-A BILL TO CLEAR TITLE TO CERTAIN LANDS ALONG THE CALIFORNIA-NEVADA BOUNDARY-

AMENDMENT NO. 1

On page 3, line 25 after "as the case may be." insert:

This Act shall not confer any rights to either the State of California or the State of Nevada over and above those which may presently exist relating to entitlements to public lands.

AMENDMENT NO. 2

On page 4 strike out lines 2 through 9 inclusive, and insert:

Not later than thirty days after the date of the enactment of this Act, the Secretary of Interior shall, in coordination with the States of California and Nevada, identify the property affected by sections 2 and 3 by reference to a set of maps filed with the official records of the Department of Interior, California State Lands Commission, and the Nevada Division of State Lands. Such set of maps may be revised from time to time for the purpose of more accurately identifying the property affected by sections 2 and 3 of this act. The existence of such maps shall be published in the Federal Register at the time of their completion.

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Carson City, Nevada 89710

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Division of State Lands

OCT -2 PM 5:30

September 30, 1985

The Honorable Malcolm Wallop, Chairman
Public Lands, Reserved Water and
Resource Conservation
Senate Energy and Natural Resources
Committee
SD-308 Dirksen Senate Office Building
Washington, D.C., 20510

Attention: Mr. Tony Bevinetto

Dear Senator Wallop:

The Nevada Division of State Lands has been working for some years with concerned property owners, the California Land Title Association, and other affected agencies in support of national legislation to validate the title to certain lands along the Nevada-California boundary.

As you are aware, since Nevada became a state the state boundary has been shifted several times. In addition, early surveying techniques often resulted in inaccuracies and discrepancies in property descriptions. Taken together, these factors have led us to a situation in which many landowners find themselves in possession of land patented by the State of Nevada but located today in the State of California, or vice versa.

Nevada has always assured its patentees and their successors that their title is valid, regardless of the specific location of the land in question. However, some property owners and their title insurers are nervous that this situation could be construed as a cloud on their title.

We have continued to work toward the passage of legislation to validate these titles. This legislation has now been introduced as S. 1503 and H.R. 3185. Such legislation would be a great benefit to the affected private property owners.

This office reviewed the draft of the legislation some months ago, and approved the draft. Since that time, a fifth section has been added to the bill, calling for the development of a list of all affected properties. We do not support this amendment. The properties are adequately described in sections 2 and 3. We note that it is difficult, perhaps impossible, to verify with certainty the completeness and accuracy of many of these historic land records. The publication of a list of legal descriptions of affected properties that contains any possibility of error will cause greater problems than we have now. This bill, which attempts to remove a hypothetical cloud on the titles of certain properties, would instead create a very real cloud on the title of any property listed inaccurately.

If additional information is needed about the properties in question, we would refer interested parties to the enclosed documents. The first is a list of all the patents that the State of Nevada has issued for grant lands in the affected area. You will note that somewhat over 100 land patents were issued for more than 7,000 acres of land. This list is as accurate as possible at the present time, and may need to be amended in the future. We do not recommend its inclusion in the bill, nor its publication in the federal register, but have no objection to referring to it for informational purposes. We have also worked with the state of California to create a set of maps showing the locations of affected properties. This set of maps, entitled "Federal Lands Selected by California and Nevada Potentially Affected by S. 1503 and H.R. 3085," and dated August 23, 1985, can also be referred to for information on the lands in question. We suggest that section 5 be amended to mention the existence of this backup material, and that the publication of a list of properties be deleted.

With this amendment, it is our pleasure to support S. 1503 and H.R. 3085. We hope you find this information helpful. Please don't hesitate to contact us if you need additional information or assistance.

Sincerely,

Pamela B. Wilcox
Administrator

PBW:jsd

cc: Jim Trout, California State Lands Commission
Sean McCarthy, Washburn and Kemp

LETTER SENT TO:

The Honorable John F. Seiberling, Chairman
Public Land Subcommittee
House Interior and Insular Affairs Committee
812 House Office Building, Annex 1
Washington, D.C. 20515

Attention: Mr. C. Stanley Sloss
Senator Seiberling

The Honorable Malcolm Wallop, Chairman
Public Lands, Reserved Water and
Resource Conservation
Senate Energy and Natural Resources
Committee
SD-308 Dirksen Senate Office Building
Washington, D.C., 20510

Attention: Mr. Tony Bevinetto
Senator Wallop

The Honorable Alan Cranston
United States Senate
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Washington, D.C. 20510
Senator Cranston

The Honorable Chic Hecht
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Senator Hecht

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Senator Laxalt

The Honorable Pete Wilson
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Senator Wilson

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Congressman Lehman

The Honorable Jerry Lewis
U.S. House of Representatives
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Washington, D.C. 20515
Congressman Lewis

The Honorable Harry Reid
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Congressman Reid

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Reno, Nevada 89520-0006
Mr. Spang

Division of State Lands
State Land Office
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STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Division of State Lands

CALIFORNIA/NEVADA TITLE VALIDATION LEGISLATION

Patent No.	Patentee	Date of Patent	Grant	Acres Sold	Acres Charged
59	W. W. Lapham	06/26/1869	Internal Improvement	181.61	181.61
62	W. H. Smith	06/28/1869	Internal Improvement	80.00	80.00
140	Waterman H. Morton	01/27/1870	Internal Improvement	22.76	45.52
160	Charles Webber	02/18/1870	Public Buildings	76.86	153.72
169	Felix O'Neil	03/04/1870	Internal Improvement	72.80	145.60
175	Harriet Woodford	03/11/1870	Internal Improvement	76.09	76.09
185	I. B. Wallace	03/16/1870	Internal Improvement	122.23	244.46
186	I. B. Wallace	03/16/1870	Internal Improvement	78.26	156.52
250	David Jones	05/28/1870	16 & 36	88.88	177.76
253	Alexander Fraser	07/25/1870	Internal Improvement	247.58	495.16
302	Anthony Derrick	12/06/1870	Internal Improvement	160.00	160.00
343	A. M. Wickes	05/02/1871	Internal Improvement	108.76	217.52
427	Freeman McComber	05/02/1872	Internal Improvement	240.00	240.00
438	John P. Foulks	06/03/1872	Internal Improvement	77.71	155.42
446	J. Humboldt Eaton	06/03/1872	Internal Improvement	204.56	204.56
455	William B. Tiffany	06/20/1872	Internal Improvement	159.35 75.17	159.35 150.34
456	Ellen D. McComber	06/20/1872	Internal Improvement	240.00	240.00
485	Caroline M. Lapham	10/07/1872	Internal Improvement	97.60	97.60
506	Truman H. Thompson	11/11/1872	Internal Improvement	39.84	79.68
534	W. B. Campbell	05/28/1873	Internal Improvement	52.71	105.42
563	William B. Tiffany	05/28/1873	Internal Improvement	38.00	76.00
566	William W. Wyatt	05/28/1873	16 & 36	45.99	45.99
580	T. H. Thompson	06/13/1873	Internal Improvement	40.00	80.00
710	Henry L. Fish	02/25/1874	Internal Improvement	157.66	315.32
737	George W. Browne	04/25/1874	Internal Improvement	158.84	317.68
746	J. P. Foulks	05/15/1874	Internal Improvement	120.00	240.00
754	Joseph N. Wallace	06/03/1874	Internal Improvement	35.39	70.78

Patent No.	Patentee	Date of Patent	Grant	Acres Sold	Acres Charged
772	William Merrill	07/07/1874	Internal Improvement	40.00	80.00
779	Joseph A. Todman	11/06/1874	Internal Improvement	42.83	85.66
787	Abial S. Berry	11/06/1874	Internal Improvement	140.00	140.00
788	Patrick Higgins	11/06/1874	Internal Improvement	40.00	40.00
801	William Salge	01/25/1875	Internal Improvement	80.00	80.00
806	Joseph N. Wallace	01/22/1875	Internal Improvement	93.35	186.70
809	William B. Tiffany	02/08/1875	Internal Improvement	80.88	161.76
816	Mary A. Tiffany	03/04/1875	Internal Improvement	40.00	80.00
818	James Hannum	03/19/1875	Internal Improvement	84.96	84.96
839	Moritz Lippman	05/20/1875	Internal Improvement	255.05	510.10
840	Thomas K. Hymers	05/20/1875	Internal Improvement	145.13	290.26
852	Freeman McComber	05/25/1875	Internal Improvement	80.00	80.00
853	Ellen D. McComber	05/25/1875	Internal Improvement	80.00	80.00
936	Emily C. Fish	08/25/1875	Internal Improvement	154.19	308.38
950	Joseph N. Wallace	10/15/1875	Internal Improvement	13.49	26.98
975	Henry C. Hunken	12/20/1875	Internal Improvement	13.83	27.66
976	Henry C. Hunken	12/20/1875	Internal Improvement	121.04	242.08
977	Henry C. Hunken	12/20/1875	University	36.81	36.81
995	John N. Pine	04/04/1876	Internal Improvement	40.00	80.00
1001	Mary Ann Tiffany	05/20/1876	Internal Improvement	37.43	74.86
1018	Henry Neddenrein	07/26/1876	Internal Improvement	54.41	54.41
1021	Mary A. Tiffany	09/19/1876	Internal Improvement	12.78	25.56
1066	Joseph Jones	03/22/1877	Internal Improvement	80.00	80.00
1067	Truman H. Thompson	03/22/1877	Internal Improvement	40.16	40.16
1068	William H. Young	03/22/1877	Internal Improvement	85.89	85.89
1070	John P. Foulks	04/21/1877	Internal Improvement	78.28	156.56
1110	William B. Tiffany	10/31/1877	Internal Improvement	80.00	80.00

Patent No.	Patentee	Date of Patent	Grant	Acres Sold	Acres Charged
1111	Mary A. Tiffany	10/31/1877	Internal Improvement	40.00	40.00
1240	Christopher Haller	10/15/1878	Mining College	40.00	80.00
1241	Henry C. Hunken	10/15/1878	Mining College	40.00	40.00
1331	George F. Mills	08/06/1879	16 & 36	18.00	18.00
1773	Mary A. Tiffany	04/09/1883	Internal Improvement	13.39	26.78
1820	Margaret Foulks	05/21/1883	Internal Improvement	75.46	150.92
1828	W. H. Young	05/29/1883	Internal Improvement	37.18	37.18
1857	Philip Judkins	06/23/1883	Internal Improvement	70.40	140.80
2008	H. H. Lancaster	12/12/1883	2 Million Acre	27.80	27.80
2009	G. W. Stout	12/12/1883	2 Million Acre	18.00	18.00
2011	Barbara A. Lancaster	12/12/1883	2 Million Acre	30.00	30.00
2020	Richard Kirman	01/04/1884	2 Million Acre	5.00	5.00
2142	John P. Marshal	08/20/1884	2 Million Acre	140.00	140.00
2159	George A. Green	09/19/1884	Internal Improvement	2.59	2.59
2264	Alfred P. Pike	02/19/1885	2 Million Acre/Indemnity	25.00	25.00
2810	John H. Merritt	12/31/1888	Internal Improvement	40.95	81.90
2841	William S. Bliss	04/09/1889	Internal Improvement	40.00	40.00
2923	Theodor Tillman	05/23/1890	2 Million Acre	52.15	52.15
3232	Wilhelm Dangberg	05/04/1892	2 Million Acre	88.00	88.00
3260	John Baldwin	06/07/1892	2 Million Acre	5.00	5.00
3587	Alexander Scossa	09/07/1895	2 Million Acre	21.45	21.45
3755	George W. Gallanar	10/06/1897	2 Million Acre	50.30	50.30
3944	Elihu J. Kelley	11/01/1898	2 Million Acre	42.82	42.82
3945	Seth Kelley	11/01/1898	2 Million Acre	38.81	38.81
4121	Barney Riley	10/02/1899	2 Million Acre	40.00	40.00
4145	William H. Harley	11/10/1899	2 Million Acre	34.73	34.73
4181	Benjamin Palmer	02/03/1900	2 Million Acre	20.00	20.00

Patent No.	Patentee	Date of Patent	Grant	Acres Sold	Acres Charged
4450	Mathias A. Jacobsen	03/05/1901	2 Million Acre	13.54	13.54
4913	Dierich Panning	12/13/1902	Internal Improvement	31.68	31.68
5207	Philip Judkins	05/12/1904	Internal Improvement	83.88	83.88
5636	George Soule	03/22/1906	2 Million Acre	2.00	2.00
5947	Luigi DeLuchi	06/07/1907	2 Million Acre	2.00	2.00
7570	Edward J. McLaughlin	07/19/1913	Internal Improvement	105.44	210.88
7867	Christina S. Speck	11/24/1914	2 Million Acre	8.38	8.38
7878	Chris Beck	12/03/1914	2 Million Acre	30.00	30.00
8468	Ezekiel Edgecomb	11/27/1916	2 Million Acre	46.95	46.95
8474	Joseph Platt	11/27/1916	2 Million Acre	70.85	70.85
8482	Len Derrick	11/27/1916	2 Million Acre	121.24	121.24
8489	William Bender	11/27/1916	2 Million Acre	29.58	29.58
8494	Tremnor Coffin	11/27/1916	2 Million Acre	34.79	34.79
8940	Fritz Elges	12/08/1917	2 Million Acre	5.00	5.00
8944	George Springmeyer	12/08/1917	2 Million Acre	35.00	35.00
9321	Harrison Berry	09/18/1919	2 Million Acre	45.00	45.00
9322	George H. Fay	09/18/1919	University	15.00	15.00
9381	Frank E. Brockliss	11/28/1919	Internal Improvement	17.00	17.00
11487	H. B. R. Bushard	07/31/1941	Internal Improvement	74.39	148.78
11670	John C. Fugitt	05/26/1943	Internal Improvement	39.45	78.90
12285	James and Ida Compston	09/19/1947	2 Million Acre	2.00	2.00
12537	W. F. Dressler	06/07/1950	Internal Improvement/ 2 Million Acre	67.24	67.24
12650	Vemba W. Pitts	04/19/1951	2 Million Acre	25.90	25.90
13343	Chris, Martin & Sophus Mortensen	03/13/1961	Internal Improvement	80.00	160.00
13373	Hugh Holstrom	02/26/1962	Internal Improvement	40.00	80.00
		TOTAL		7,232.50	10,593.71

Prepared by The Nevada Division of State Lands
August 12, 1985

KENNETH CORY
Controller of the State of California
SACRAMENTO, CALIFORNIA 95805

October 3, 1985

Honorable Malcolm Wallop
Energy and Natural Resources
Committee
Subcommittee on Public Lands, Reserved
Water and Resource Conservation
SD-308 Dirksen Senate Office Building
Washington, D.C. 20510

Attention: Mr. Tony Bevinetto

Dear Mr. Bevinetto:

The California State Lands Comission supports S.1503 which will be heard Friday in the Energy and Natural Resources Committee, Subcommittee on Public Lands, Reserved Water and Resource Conservation. We would like to see the attached technical amendments adopted by the Committee.

Amendment No. 1 makes it clear that S.1503 is not intended to confer any new entitlement rights to public lands to either the State of California or Nevada. Amendment No. 2 deletes reference to identification of the affected lands by description and requires that maps be prepared, within 30 days after enactment, that clearly delineate the property affected. These maps have been prepared by the California State Lands Commission and have been endorsed and approved by the State of Nevada, Nevada Land Title Association, and the California Land Title Association. Because of the inherent surveying and engineering problems related to defining the border, we feel that all affected parties can better identify the specific location of lands by reference to maps. This avoids confusion and the likelihood of error.

S.1503 confirms title in the private parties to land along the California-Nevada border. The purpose of the bill is to remove any cloud on title to these particular lands and to avoid further costly litigation as the means of resolving title. Only land formerly in Federal ownership, transferred to the States and then to third parties, is covered by the provisions of S.1503. Any remaining disputes between the Federal and State governments are not affected by the bill.

Honorable Malcolm Wallop
October 3, 1985
page two

As I have consistently stated, the losers or winners of this effort are the homeowners and taxpayers along the California-Nevada border. Passages of S. 1503 is the only fair and equitable way of dealing with private title to property along the California-Nevada border.

Cordially,

Ken Cory

Kenneth Cory
State Controller
Chairman, State Lands Commission

Attachment

cc: Senator Alan Cranston
Senator Chic Hecht
Senator Paul Laxalt
Senator Pete Wilson

AMENDMENTS TO S.1503 (LAXALT)

-A BILL TO CLEAR TITLE TO CERTAIN LANDS ALONG THE CALIFORNIA-NEVADA BOUNDARY -

AMENDMENT NO. 1

On page 3, line 25, after "as the case may be." insert:

This Act shall not confer any rights to either the State of California or the State of Nevada over and above those which may presently exist relating to entitlements to public lands.

AMENDMENT NO. 2

On page 4 strike out lines 2 through 9 inclusive, and insert:

Not later than thirty days after the date of the enactment of this Act, the Secretary of Interior shall, in coordination with the States of California and Nevada, identify the property affected by sections 2 and 3 by reference to a set of maps filed with the official records of the Department of INterior, California State Lands Commission, and the Nevada Division of State Lands. Such set of maps may be revised from time to time for the purpose of more accurately identifying the property affected by sections 2 and 3 of this act. The existence of such maps shall be published in the Federal Register at the time of their completion.

1515 K Street, Suite 600
Sacramento, California 95814
(916) 324-5437

3580 Wilshire Boulevard, Suite 800
Los Angeles, California 90010
(213) 736-2273

State of California
Office of the Attorney General
John K. Van de Kamp
Attorney General

October 1, 1985

The Honorable Malcolm Wallop
Chairman, Subcommittee on
Public Lands and Reserve Water
Room SD 308
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Wallop:

S. 1503 LAND TITLE QUESTIONS RELATED TO THE
CALIFORNIA-NEVADA BOUNDARY

We understand that S. 1503, sponsored by Senators Paul Laxalt and Chic Hecht from Nevada and Senators Alan Cranston and Pete Wilson from California is presently before the Subcommittee on Public Lands and Reserve Water for consideration. As I did two years when S. 1860 was before this subcommittee, I would like to voice my support for this legislation which is needed to resolve questions concerning the validity of certain land titles located in the vicinity of the interstate boundary. Its enactment will bring needed finality to land titles in this area.

To review the background of this matter, the U.S. Supreme Court in California v. Nevada (1980) 447 U.S. 125, held that the Von Schmidt line of 1872 (from the Oregon border south to Lake Tahoe) and the United States Coast & Geodetic Survey line of 1899 (from the lake southeast to the Colorado River), constitute the boundary between the states by virtue of the doctrine of acquiescence. Prior to those surveys, other lines (the Houghton-Ives Survey of 1863 north of the lake and the Von Schmidt Survey along the oblique line south of the lake) had been briefly recognized by the states and the federal government as the interstate boundary. Thus a century-old controversy over the California-Nevada boundary was put to rest.

However, it did not resolve the question of validity of certain federal grants made in reliance on earlier, discredited boundary lines. For the most part these grants were made before the currently recognized lines took effect but in some cases they occurred later.

When the boundary was finally resolved, the north-south line from Oregon to Lake Tahoe shifted to the east (see attached illustration No. 1) and the oblique line south of the lake shifted, to some extent, both east and west (see attached illustrations Nos. 3 & 4).

The problem which this legislation addresses arises because the United States transferred numerous parcels of land from the public domain to the states for public schools, internal improvements, etc., on the basis of the earlier boundary lines. Because of the peculiarities of the shifting lines, thousands of acres of land transferred by the United States to the State of Nevada and long since conveyed away to third parties are actually located in California. The converse also occurred with respect to several parcels conveyed to California. There is some authority which suggests that transfers of public lands to a state where the lands are located in another state may be invalid. This, of course, creates a cloud on present day titles held by third parties.

California sought to have the Supreme Court resolve this question in California v. Nevada but, despite the recommendations of the Special Master appointed in the case and the United States as Amicus Curiae, the court declined to consider this question because it was deemed not to be within its exclusive jurisdiction.

Litigation to resolve this question would likely be protracted and costly. The more desirable alternative is federal legislation by which the original transfers of public lands to one or the other state are declared not invalid simply because the lands were found to be located outside the state's political boundaries. S. 1503 could accomplish that purpose and I respectfully request its favorable consideration.

Very truly yours,

John K. Van de Kamp

JOHN K. VAN DE KAMP
Attorney General

Attachment

cc: Honorable Alan Cranston
Honorable Pete Wilson
Honorable Paul Laxalt
Honorable Chic Hecht
Honorable Brian McKay

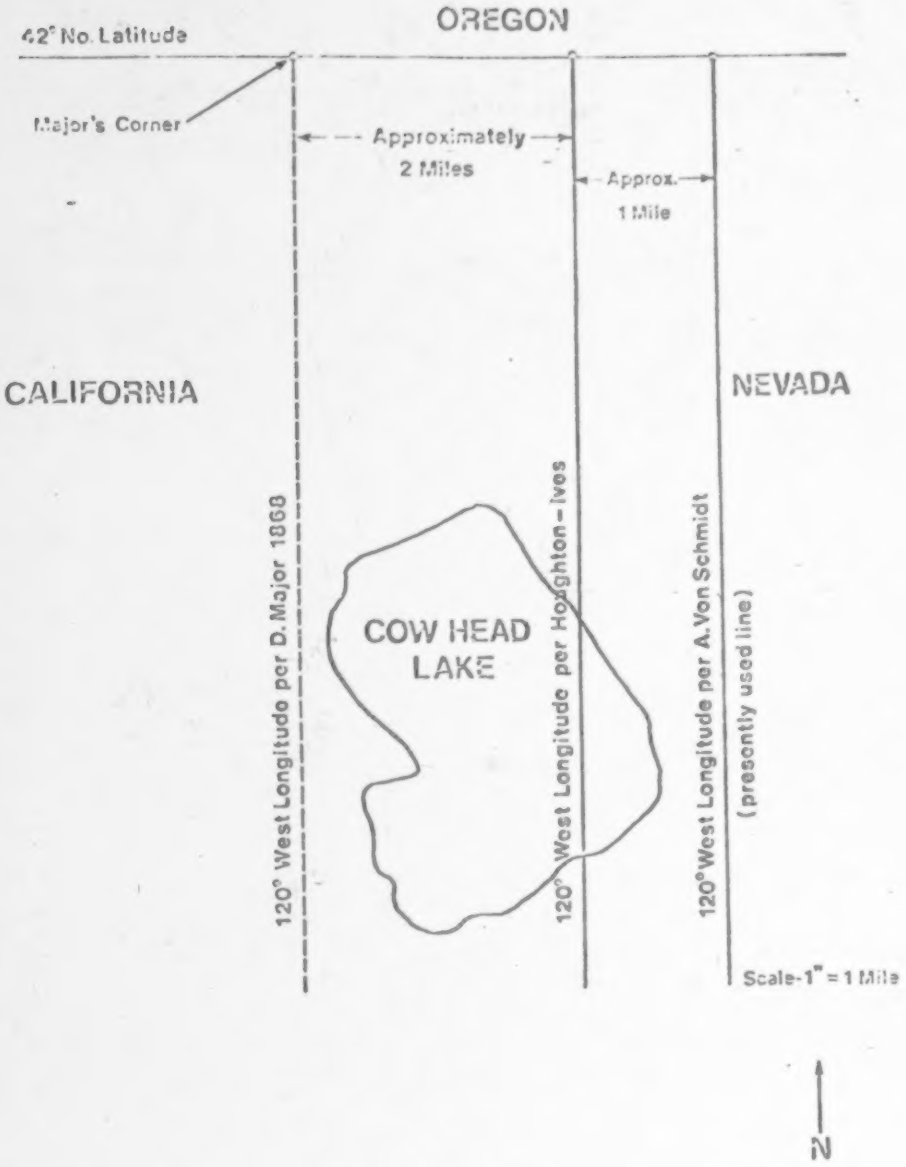

OREGON
42° No. Latitude
Major's Corner
Approximately 2 Miles
Approx. 1 Mile
CALIFORNIA
NEVADA
COW HEAD LAKE
120° West Longitude per D. Major 1868
120° West Longitude per Houghton – Ives
120° West Longitude per A. Von Schmidt
(presently used line)
Scale-1" = 1 Mile
N

Illustration No. 1

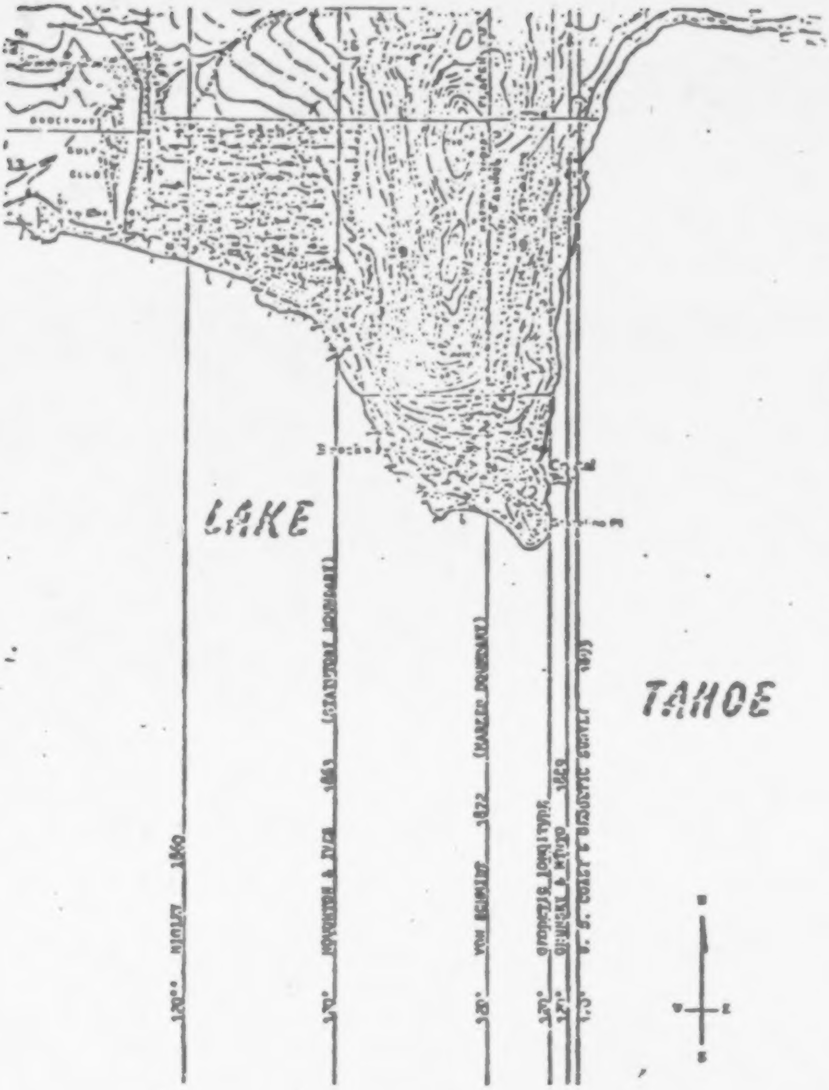

LAKE
TAHOE
Brockway
120° HIGLEY 1860
120° HOUGHTON & IVES 1863 (STATUTORY BOUNDARY)
120° VON SCHMIDT 1872 (MARKED BOUNDARY)
120° GEODETIC LONGITUDE
120° [illegible] & MINTO 1889
120° U. S. COAST & GEODETIC SURVEY 1893
N
W
E
S

Illustration No. 2

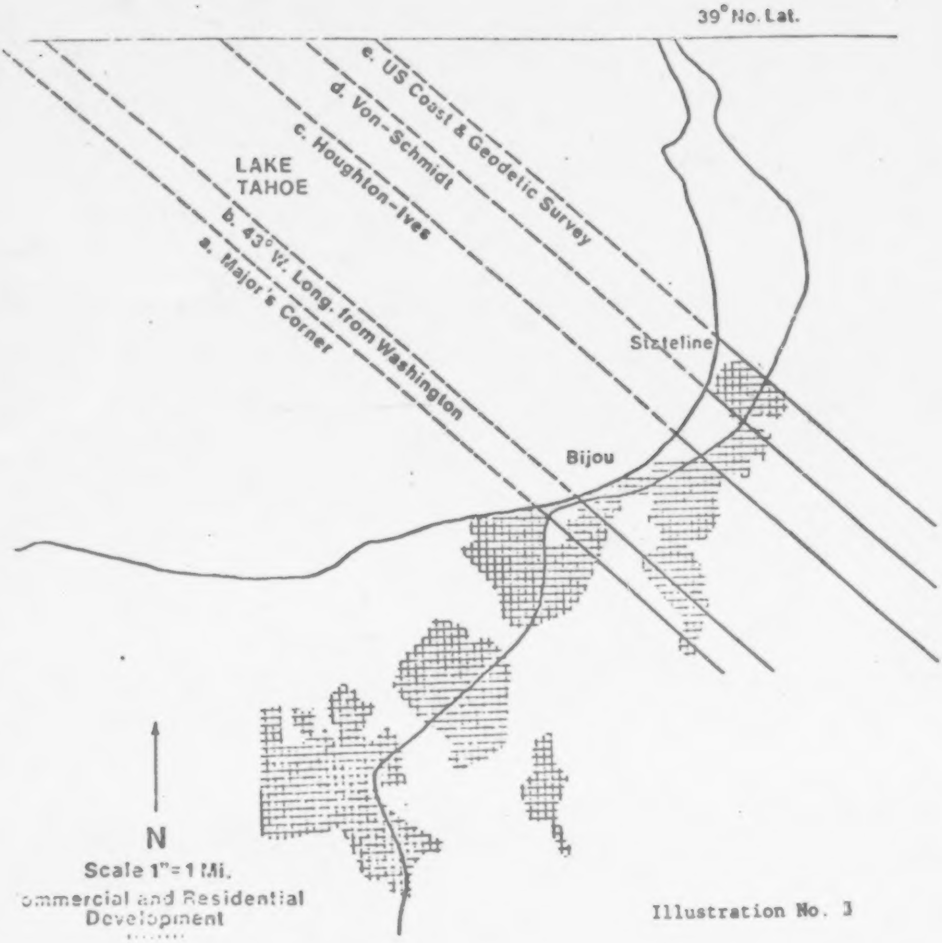

39° No. Lat.
e. US Coast & Geodetic Survey
d. Von-Schmidt
c. Houghton-Ives
LAKE TAHOE
b. 43° W. Long. from Washington
a. Major's Corner
Stateline
Bijou
N
Scale 1"=1 Mi.
ommercial and Residential Development

Illustration No. 3

River, and whether you shall recognize the old channel of the river or the present channel as you now find it. * * *

In reply I have to say that, under the circumstances, in reference to the changes in the river channel at different times, and the fact that Lieutenant Ives's survey has never been returned to or recognized by the Department, your obvious duty will be to consider the intersection of the thirty-fifth degree of latitude with the middle of the channel of the river as you find it by your own determination and survey. * * *

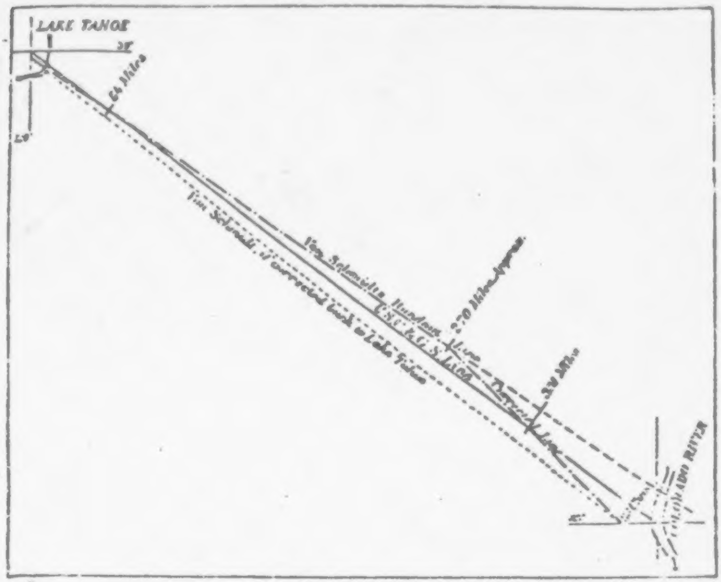
Very respectfully, your obedient servant,

WILLIS DRUMMOND, *Commissioner.*

Copies of the two sketches are shown here. (See illustrations Nos. 4 and 5.)

In compliance with the requirements of the Commissioner a correction to the west

No 8.



LAKE TAHOE
39°
64 Miles
120°
Von Schmidt's Random Line
U.S.C.&G.S. Line
Von Schmidt, if corrected back to Lake Tahoe
270 Miles approx.
350 Miles
Corrected Line
35°
COLORADO RIVER

Von Schmidt and C. & G. Survey lines.

along the thirty-fifth degree of latitude of 143 chains was to be made from the terminal as located by Lieut. J. C. Ives in 1861, and of 118 chains southwest of the random line run by Von Schmidt, namely, 20 chains to the southwest, being the error of closure on the Ives point; and 98 chains to the southwest, being the amount of correction due to the shifting of the river between 1861 and 1873.

This correction of 118 chains—nearly 1½ miles—to the southwest at the Colorado River terminus of the Von Schmidt random, was not distributed proportionately along the entire line from the Colorado River to Lake Tahoe, but was limited to a distance of

Illustration No. 4

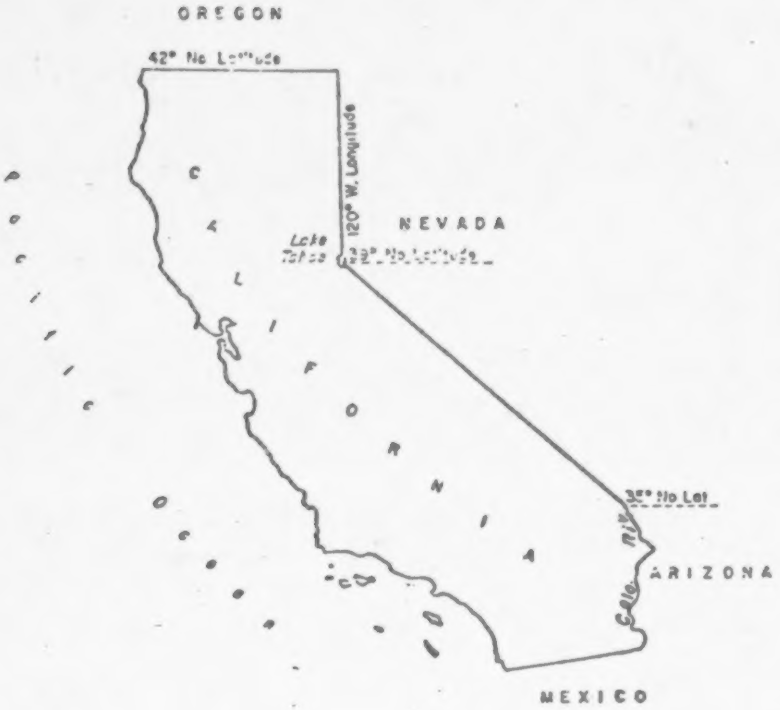

OREGON
42° No Latitude
120° W. Longitude
NEVADA
Lake Tahoe
39° No Latitude
CALIFORNIA
Pacific Ocean
35° No Lat
Colo. Riv.
ARIZONA
MEXICO

Illustration No. 5

CALIFORNIA LAND TITLE ASSOCIATION
P.O. BOX 13968 • SACRAMENTO, CALIFORNIA 95853 • (916) 444-2647

September 26, 1985

Honorable Malcolm Wallop
Chairman
Subcommittee on Public Lands
and Reserved Water
United States Senate
SD-308 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Wallop:

I am writing on behalf of the California Land Title Association (CLTA), a nonprofit trade association representing over 100 title companies doing business in California, to respectfully request your favorable consideration on S.1503 which is designed to clarify title to lands located along the California-Nevada boundary as declared by the United States Supreme Court in 1980.

The CLTA supports the enactment of S.1503 since it will remove a cloud on title to various parcels which were conveyed by the United States to California and Nevada and then into private ownership. Because of the 1980 boundary determination by the U.S. Supreme Court it is now recognized that Nevada and California each conveyed land actually located in the other state. S.1503 is a legislative solution to what might otherwise be a costly judicial resolution. This resolution is accomplished by confirming current ownership in third parties. The bill does not apply to lands still retained by the states.

The CLTA has been working with the Nevada Land Title Association, the California State Lands Commission, the Nevada Division of State Lands, the Attorneys General of California and Nevada and the California and Nevada Bureaus of Land Management to specifically identify the affected parcels. These identifying maps have now been prepared. Additional background information prepared in 1981 regarding the reasons for this bill is enclosed.

Honorable Malcolm Wallop
September 26, 1985 - Page 2

Should you need further information or should the Committee desire any assistance regarding this legislation, please contact me for an immediate response.

Sincerely,

Lawrence E. Green
Executive Vice President
and Counsel

LEG:vo
Enclosures

cc: Congressman John F. Seiberling
Senator Chic Hecht
Senator Paul Laxalt
Senator Pete Wilson
Congressman Richard H. Lehman
Mary Lou Cooper
David S. Brown
Eleanor R. Schwartz

CALIFORNIA LAND TITLE ASSOCIATION
P.O. BOX 13968 • SACRAMENTO, CALIFORNIA 95813 • (916) 444-2647

PROPOSED ARGUMENT IN FAVOR OF THE CALIFORNIA-NEVADA STATUTE
(February 25, 1981)

The common boundary of California and Nevada is defined primarily by reference to lines of latitude and longitude. However, its exact location on the ground has been uncertain from the time those states were admitted to the Union because of inaccessibility of the land, and conflicting surveys. During the last half of the 19th century a great deal of real property located within a few miles of the boundary was transferred by the United States to each of the States. According to the boundary line established in 1980 by the United States Supreme Court many thousands of acres of that real property are, in fact, located within the boundaries of the other State. Language in some of the federal statutes authorizing such transfers to a state limit the transfers to land located within the transferee state. As a result, the effectiveness of various transfers may be questioned. However, only a few questions have been raised, and most of this real property has been transferred into private ownership by the State which was named as transferee. The real property very generally has been recognized as properly transferred by the United States. Subsequent deeds and other instruments affecting it have been relied on as valid by federal, state and local governments, and by the public. Much of the property is highly developed and very valuable.

This S.1503 would ~~statute is proposed to~~ confirm the validity of the original transfers from the United States and thereby remove any question concerning the legal sufficiency of titles to and other interests in that land. Most of these titles and interests can be traced back for over a hundred years.

The boundary line selected by the Supreme Court in 1980 consists of a survey line established from the Oregon border to Lake Tahoe in the early 1870s and known as the Von Schmidt survey, and, from the point in Lake Tahoe to the Colorado River, a line surveyed by the United States Coast and Geodetic Survey in the 1890s. The line from Lake Tahoe to the Colorado River was adopted as the boundary line by statutes of each State around 1900. North of the Lake another survey line, located about a half mile or more west of the Von Schmidt line and known as the Houghton-Ives line, had been completed in the early 1860s and accepted by the two States as the boundary. However, both States began using the Von Schmidt line as the boundary shortly after the completion of that survey, and have continued to use it to the present time. Governmental and private acts of all kinds have been based on the Von Schmidt line.

South of Tahoe Von Schmidt had continued his survey toward the Colorado River, but it was not completed. His line was treated as the boundary for a time. When the Coast and Geodetic survey was made it crossed the Von Schmidt line at least twice. Other surveys were made of parts of the boundary both before and after the Von Schmidt line was surveyed; actual locations of the boundary remained uncertain along portions of the line for many years. However, the line now established by the Court north of the Lake has been accepted generally as the boundary for over a hundred years and south of Tahoe since about 1900. Plats indicating some of the different surveys, and showing the situation for the entire boundary, and specifically at the Oregon border and at the north and south ends of Lake Tahoe, are attached. These plats may not be accurate as to scale.

Many thousands of acres of land have been transferred to one State or the other by the United States, which land, according to Supreme Court decree, now has been established as being located physically in the other State. Much of this land was transferred pursuant to a federal statute such as the School Lands Act (Act of March 3, 1853, 10 U.S. Stats. 244) which authorized the transfer to a state of title to certain amounts of land within that state. It was assumed when these transfers were made that the law was being complied with, and that the land was within the transferee state. These transfers to "the wrong state" appear to have resulted from the inaccuracies in, and conflicts among, the surveys of the boundary lines and of the parcels themselves. These inaccuracies and conflicts, in turn, resulted from the rough terrain and inaccessability of much of the land, and the lack of precision in surveying instruments and procedures then in use.

Despite the fact that the land in question has been established by the 1980 decree as being outside the boundaries of the transferee State, each of the States has treated the land it received as properly transferred to it. Most of this real property has been patented or otherwise transferred into private ownership by the State designated as transferee. The private owners have dealt with it with no question being raised concerning the validity of the titles originating with the United States. Private owners have sold it, improved it, created mortgage or other liens on it; taxes have been assessed and paid to the State and to local counties and cities within the State where the land is located. Much of this land has been highly developed for commercial or residential purposes and, in total, the land probably is worth hundreds of millions of dollars. One such parcel, for example, is roughly triangular and is located at the north end of Lake Tahoe. It runs north along the Von Schmidt line from the Lake at the property known as the CalNeva Lodge for about half a mile. Then the boundary of the parcel moves west to the Lake and returns along the Lake shore to the point of beginning. This very valuable area is located in California, but originally was transferred by the United States to Nevada, and transferred by Nevada to private owners. Following the acquisition by the private owners, the triangular portion has been assumed for all purposes to be located in California, subject to the laws and legal rules of California; and title of the private owners has been accepted universally as being valid. There are many other parcels, both north and south of the Lake and transferred to each State, where an almost identical situation exists, although few of those parcels are as valuable and as intensively developed as the one described.

The only objection to the validity of transfers from the United States to either California or Nevada of land outside the boundaries of the transferee State appears to come from some agencies of the federal government. An opinion of the Solicitor General of the Department of the Interior during the 1960s refused to recognize a transfer by the United States to California of land south of Tahoe and west of the Von Schmidt line, but east of the Coast and Geodetic line. The land is in Nevada according to the recent Supreme Court decree, but was assumed to be in California when the survey of the property was completed during the 1890s prior to the completion of the Coast and Geodetic survey.

There also are Supreme Court cases which have resolved ownership problems when each of two states has conveyed the same property to a different private owner on the assumption that the land was located within its boundaries. No situations have been discovered where California and Nevada have separately conveyed the same parcel of land to different owners. Many sections and agencies of the United States government, like the State and local governments and the public in general, have treated the title to the land in question as being valid. For example, for many years the documentary transfer tax was collected; titles and other interests in land are recognized in the federal courts; and federal taxes have been imposed, collected and liens filed on the basis of the private titles being valid. There is law that the United States is estopped from questioning the validity of transfers it has made when the title has passed into private ownership. However, the question of the effectiveness of a transfer of land to a state other than the one where the land is located appears not to have been decided directly. The question should be resolved in order to confirm the almost universal acceptance of the validity of the transfers and in order to prevent any future difficulties for parties who have relied on the validity of the titles believed to have been established.

The Supreme Court concluded in the California-Nevada boundary case that while it had the jurisdiction to resolve any title problems that its jurisdiction was not exclusive. The Court stated that "...litigation in other forums seems an entirely appropriate means of resolving whatever questions remain." This solution would require a very substantial and unnecessary expenditure of time and money by courts, lawyers, and interested parties. It could leave some problems unresolved for years.

The confirmation of the validity of the transfers of title from the United States to California and Nevada respectively can be resolved promptly by a much simpler, faster and less expensive procedure. The proposed statute can be enacted to confirm the validity of the transfers by the United States. Such a statute will carry out the intention of the United States, the States and all other governmental units or agencies, and of each of the private parties who has acquired an ownership of or some other interest in or lien upon the land. And it will verify the general and honest assumptions made for most of or more than a century that reliance on the validity of those titles is justified.

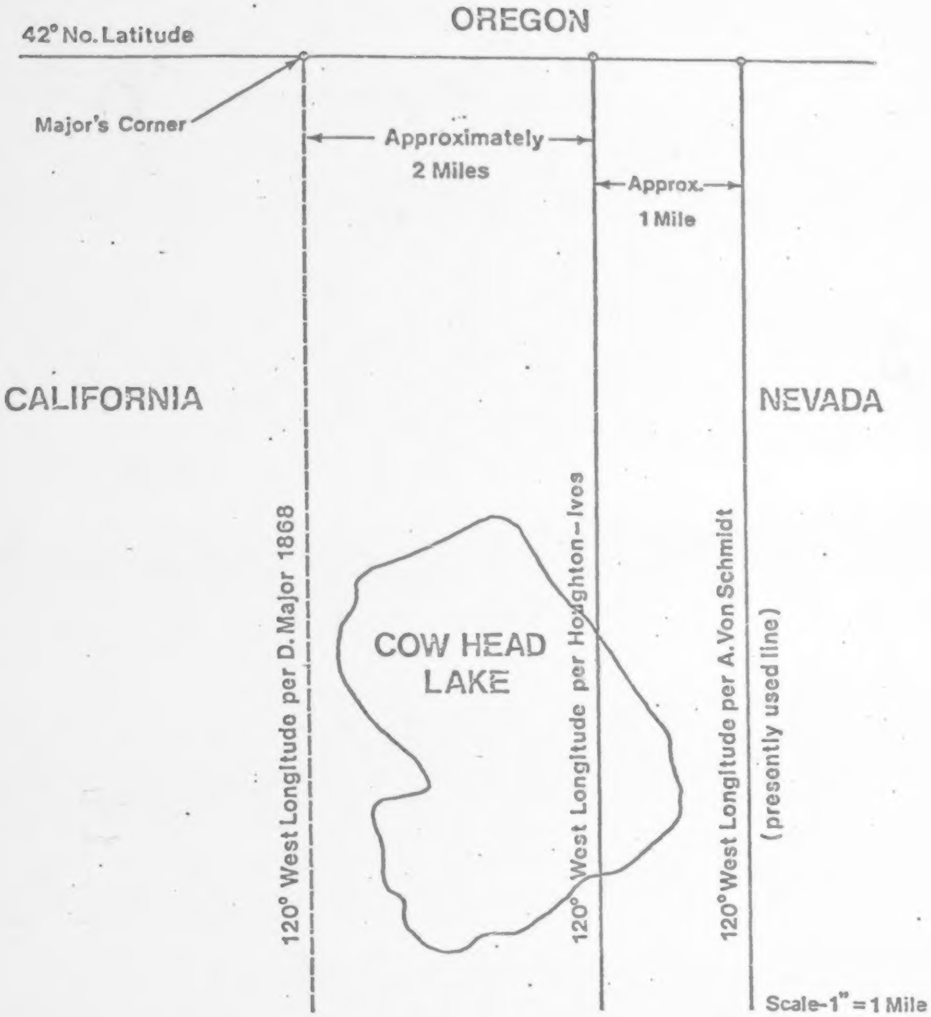
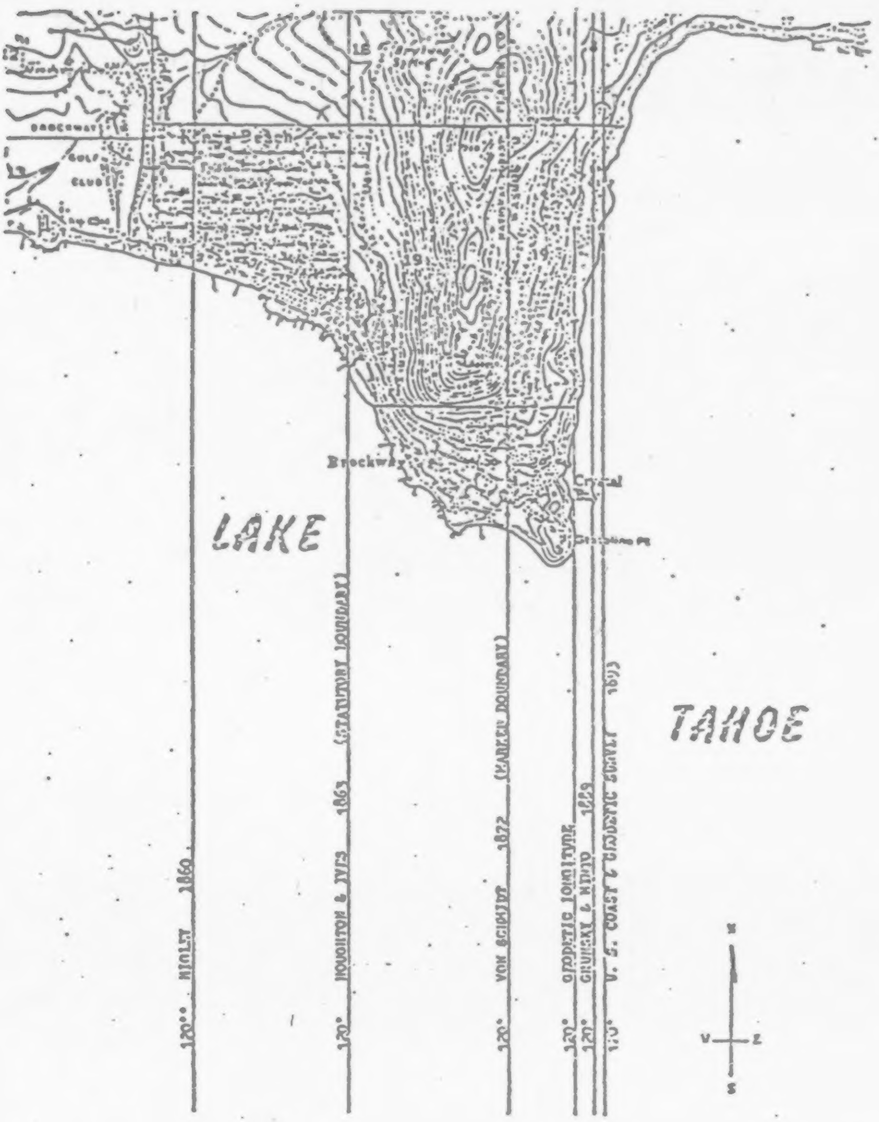

OREGON
42° No. Latitude
Major's Corner
Approximately 2 Miles
Approx. 1 Mile
CALIFORNIA
NEVADA
COW HEAD LAKE
120° West Longitude per D. Major 1868
120° West Longitude per Houghton-Ives
120° West Longitude per A. Von Schmidt
(presently used line)
Scale-1" = 1 Mile
N

EXHIBIT 2

EXHIBIT 2 C. COMPLAINT


BROCKWAY
GOLF CLUB
18
9
19
Brockway
Crystal
LAKE
TAHOE
120° HIGLEY 1860
120° HOUGHTON & IVES 1863 (STATUTORY BOUNDARY)
120° VON SCHMIDT 1872 (MARKED BOUNDARY)
120° GEODETIC LONGITUDE
120° GRUNSKY & MINTO 1889
120° U. S. COAST & GEODETIC SURVEY 1893
N
W
E
S

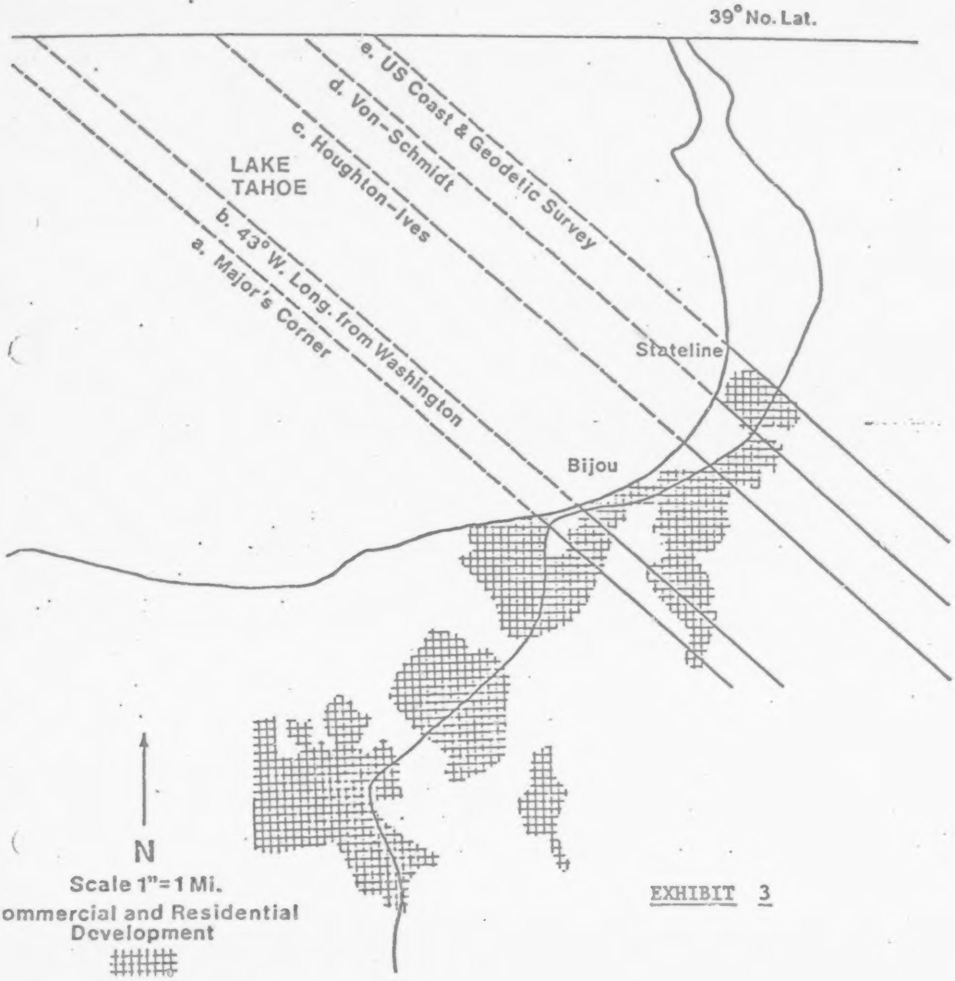

39° No. Lat.
e. US Coast & Geodetic Survey
d. Von-Schmidt
c. Houghton-Ives
LAKE
TAHOE
b. 43° W. Long. from Washington
a. Major's Corner
Stateline
Bijou
N
Scale 1"=1 Mi.
ommercial and Residential Development
▦

EXHIBIT 3

CALIFORNIA LAND TITLE ASSOCIATION
P.O. BOX 13968 • SACRAMENTO, CALIFORNIA 95853 • (916) 444-2647

October 2, 1985

Honorable Malcolm Wallop
Chairman
Subcommittee on Public Lands
and Reserved Water
United States Senate
SD-308 Dirksen Senate Office Building
Washington, D.C. 20510

Attention: Mr. Tony Bevinetto

Dear Senator Wallop:

By way of following up on my letter of September 26, I have reviewed the enclosed proposed amendments to S. 1503 regarding the California-Nevada boundary determination and support their inclusion in the bill. The amendment were prepared in cooperation with the Attorneys General of California and Nevada and the California Lands Commission & Nevada Division of Lands.

Your favorable consideration of this measure and the proposed would be greatly appreciated.

Sincerely,

Lawrence E. Green
Executive Vice President
and Counsel

LEG:dlh

Enclosures

cc: Congressman John F. Seiberling
Senator Chic Hecht
Senator Paul Lexalt
Senator Pete Wilson
Congressman Richard H. Lehman
Mary Lou Cooper
David S. Brown
Eleanor R. Schwartz

AMENDMENTS TO S. 1503 (LAXALT)

-A BILL TO CLEAR TITLE TO CERTAIN LANDS ALONG THE CALIFORNIA-NEVADA BOUNDARY-

AMENDMENT NO. 1

On page 3, line 25 after "as the case may be." insert:

This Act shall not confer any rights to either the State of California or the State of Nevada over and above those which may presently exist relating to entitlements to public lands.

AMENDMENT NO. 2

On page 4 strike out lines 2 through 9 inclusive, and insert:

Not later than thirty days after the date of the enactment of this Act, the Secretary of Interior shall, in coordination with the States of California and Nevada, identify the property affected by sections 2 and 3 by reference to a set of maps filed with the official records of the Department of Interior, California State Lands Commission, and the Nevada Division of State Lands. Such set of maps may be revised from time to time for the purpose of more accurately identifying the property affected by sections 2 and 3 of this act. The existence of such maps shall be published in the Federal Register at the time of their completion.

Senator Domenici. Now, Mr. Cargill, you have two remaining bills to testify on before the committee and you may proceed.

STATEMENT OF GARY E. CARGILL, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE, ON S. 565 AND S. 567

Mr. Cargill. We have prepared two statements: One on S. 565 dealing with the conveyance to the town of Payson, and one on S. 567 dealing with the city of Flagstaff. We will submit those complete statements for the record and I will just summarize the key points, beginning with Payson, S. 565.

We recommend that S. 565 not be enacted unless amended to require payment by the town of the fair market value for the land. The Townsite Act permits communities in the Western States to acquire National Forest System land for community expansion upon payment of fair market value and that authority has been used by other communities, including Payson, to provide for community services. And it would be unfair to those communities to grant the 31-acre tract to the town of Payson without consideration.

The preliminary estimated fair market value of this particular tract is $118,000 and I believe that covers the essential points.

Turning to Flagstaff, we do not object to the proposed conveyance, but we do object to the conveyance without payment by the city to the Federal Government. And we recommend that S. 567 not be enacted, unless amended to require payment of fair market value.

The bill is an amendment of Public Law 96-581 and that bill directs the Secretary of Agriculture to sell some 256 acres of Federal land, including the 132½ acres to the city and 18¼ acres to the Flagstaff Medical Center. It amends that to require the Secretary to convey the 132½ acres to the city without payment.

The bill also would remove the provision to convey the 18¼ tract to the medical center.

Our fundamental objection to the 132-acre conveyance is that it is without payment. The removal of the provision to convey the 18¼-acre tract to the medical center, we would urge, be revised to allow that transaction to be completed because an agreement was reached for the sale to the medical center for $900,000, and we are proceeding to complete that sale.

And we note, in amending the 1980 act, the bill removes the language pertaining to the medical center and since both parties have agreed to the sale and we're in the process of finalizing it, we recommend the bill be revised to allow that transaction to be completed.

The fair market value I have stated on the medical center tract is $900,000. The fair market we estimate on the 132½ acres in 1980 was $875,000. That is the value which it has been offered to the city for because that act provides that the value be frozen at 1980.

I believe that summarizes, as best I can, the points of the written testimony. But it is the Flagstaff bill, in particular, that is a complex set of circumstances, and I would urge that the full statement be made a part of the record.

Senator DOMENICI. It will be.

[The prepared statements of Mr. Cargill on S. 565 and S. 567 follow:]

STATEMENT OF
GARY E. CARGILL
ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM
FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands, Reserved Water and Resource Conservation,
Committee on Energy and Natural Resources
United States Senate

Concerning S. 565

October 4, 1985

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to appear here today and offer the Department of Agriculture's views on S. 565, a bill to convey about 31.14 acres of Federal land located on the Tonto National Forest to the town of Payson, Arizona, without payment by the town.

We recommend that S. 565 not be enacted unless amended to require payment by the town of the fair market value for the land.

This Federal land is part of a special use permit issued in 1979 to the town for use as a city park, known as the North Rumsey Park. It is located in the center of the town and is bounded on all four sides by private land. Under terms of the permit, the town has placed improvements on the land with a value of about $100,000.

It should be recognized that the Townsite Act (Act of July 31, 1958, as amended) permits communities in 11 Western States to acquire up to 640 acres of National Forest System land for community expansion upon payment of fair market value. This authority has been used by 10 other western communities to acquire Federal land to provide or expand community services.

It would be unfair to those communities which have purchased land under that authority to grant the 31-acre tract to the town of Payson. The town of Payson itself acquired 12 acres of National Forest land under this Act in May 1985, 6 acres of which lie within the permitted area, and was also qranted 1.1 acres of National Forest System land by the Act of September 28, 1984, for development of an historical museum. Application of the Townsite Act to the 31-acre tract would make enactment of S. 565 unnecesary.

If the Subcommittee desires to pursue S. 565, we strongly urge its amendment to require payment of fair market value. A preliminary estimate of value for the 31 acres is $118,000, a value which considers sales and exchanges of land in the immediate area and the present and potential future use of the tract. Based on mineral determinations made in connection with conveyances of other Federal tracts in the immediate area, it has been concluded that there are no mineral values in the 31-acre tract.

That concludes my testimony. I would be happy to answer the Subcommittee's questions.

STATEMENT OF
GARY E. CARGILL
ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM
FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands, Reserved Water and Resource Conservation,
Committee on Energy and Natural Resources
United States Senate

Concerning S. 567

October 4, 1985

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to appear here today to present the views of the Department of Agriculture on S. 567, a bill to convey National Forest System land to the City of Flagstaff, Arizona.

We recommend that S. 567 not be enacted unless amended to require payment of fair market value. While we do not object to the proposed conveyance, we do object to conveyance without payment by the city to the Federal Government.

The bill would amend the Act of December 23, 1980 (Public Law 96-581), which directs the Secretary of Agriculture to sell some 256 acres of Federal land, including 132.5 acres to the city and 18.25 acres to the Flagstaff Medical Center, to require the Secretary to convey the 132.5 acres to the city without payment. The bill also would remove the provision to convey the 18.25-acre tract to the Medical Center.

The Federal lands involved are reserved public domain lands which are a part of the Coconino National Forest, and lie within the city limits. The 132.5 acre tract has been under a continous free-use permit to the city since 1917 for use as a city park, known as Thorpe Park. The 1980 act requires payment for both tracts to be based on 1980 prices and allows 3 years to the Medical

Center and 10 years to the city to consummate the sale. An agreement was reached in April 1984 for sale of the 18.25 acres to the Medical Center for $900,000, and we are proceeding to complete this sale. We note that in amending the 1980 Act, the bill removes the language pertaining to the Medical Center. Since both parties have agreed to the sale but it has not been finalized, we recommend that the bill be revised to allow this transaction to be completed.

An offer was made to the city on July 20, 1984, to sell the 132.5 acres for $875,000 (1980 value). A survey made by the Bureau of Land Management as a part of the offer determined the acreage to be 134.57 acres. The remainder of the 256 acres authorized to be sold by the 1980 Act is not affected by S. 567 and would remain subject to disposal. Proceeds from the sale of the land are to be used to construct administrative improvements elsewhere in the National Forest. Based on mineral value determinations made for conveyance of other Federal lands in the immediate area, it has been concluded that there are no mineral values associated with these tracts.

We believe the general public should benefit from the sale of the National Forest land to the city. In keeping with the President's direction that all disposals of Federal land should be at fair market value, we strongly urge the Subcommittee to maintain the provisions of the 1980 Act. We should also note that there are statutes that provide broader authority to sell or exchange Federal lands to local governments for public purposes. The Townsite Act (Act of July 31, 1958, as amended) permits communities to acquire up to 640 acres of Natural Forest System land for community expansion. The Act of December 4, 1967, as amended (Sisk Act) authorizes sales of up to 80 acres where a local government holds a permit to use the Federal land. We have completed conveyances to 12 communities in the western States using these authorities. It would be unfair to other western communities which have acquired land under these authorities to have Federal land conveyed to the City of Flagstaff under similar conditions but without consideration.

That concludes my statement. I would be happy to respond to the Subcommittee's questions.

Senator DOMENICI. We thank you very much for your testimony and patience this morning and we got started late and kept you rather long, and we apologize for that. If there is nothing further that you want to submit for the record, you are excused.

Thank you very much.

Now, we have two remaining witnesses: Chris Bavasi, city of Flagstaff councilman, Flagstaff, AZ; and David Wilson, Payson City government, Payson, AZ. If the two of you would just come up together and give your testimony.

Mr. Wilson, you may proceed first, and then Mr. Bavasi.

STATEMENT OF DAVID N. WILSON, GRANTS ADMINISTRATOR, PAYSON CITY GOVERNMENT, PAYSON, AZ, ACCOMPANIED BY NEIL REYNOLDS, MAYOR, PAYSON, AZ

Mr. WILSON. Mr. Chairman and members of the committee, on behalf of Mayor Reynolds, who is present here today beside me on the stand, we wish to thank you for the opportunity of appearing here to talk to you about an issue that is vital to the town of Payson, to its residents and the citizens of the surrounding area.

In 1973, the town of Payson was incorporated, and soon after incorporation it was the desire of the town council to provide the residents of Payson and the surrounding area with a park site to be used for recreation.

The town, along with the chamber of commerce, under Mr. Dale Rumsey, secured a 20-acre site. This site, along with a grant of $383,000 was used to develop what is now Rumsey Park. The park was opened in 1978 and soon after it was evident that the 20-acre site would not support the heavy use that the park was receiving.

In 1978 the town of Payson received a use permit for 40 acres of land from the U.S. Forest Service adjacent to Rumsey Park, to be used for what is now known as Rumsey Park North. The town, since acquiring the use permit, has spent $749,000 developing the north park. This development has been for lighted ballfields, a multipurpose field, water and, this summer, the opening of a swimming pool.

During the same time period, the town has purchased 6.11 acres of these 40 acres from the Forest Service for a total cost of $55,000. The land purchased was used for the development of a well site and water storage tank, and the land on which the swimming pool was constructed during the same time period. The use permit from the U.S. Forest Service was extended to 25 years.

This, then, brings us to our being here today. The town of Payson is interested in securing the remaining 31.14 acres of land still under the use permit. Due to prevailing financial conditions and the expense of just providing essential services to the residents of Payson, it is not possible for the town to purchase the land at this time, and it is doubtful that the town could ever find itself in a financial position to do so.

For this reason, the town is requesting that the U.S. Forest Service grant to the town of Payson the 31.14 acres known as North Rumsey Park, to be used by the town as a park site for the purpose of recreation. The park is well used by the 7,000 permanent residents of the town, as well as the 20,000 residents of the surrounding area.

I might note that this is the only recreation facility in approximately 90 miles. During the summer months, the use of the park is impacted by people from the Phoenix metropolitan area who converge on Payson to escape the heat of the valley. It is not uncommon to have 25,000 people in town on a summer weekend.

Actual Arizona Department of Transportation highway counters indicate 55,000 vehicles in Payson on the average summer weekend. In 1980, the first year that we have attendance figures for the park, the use was 164,625 people, with the North Rumsey Park serving 36,775 persons.

In 1984, the park as a whole served 259,810 people, with North Rumsey Park serving 98,800 of them.

The 1985 figures will be higher yet, due to the opening of the swimming pool. The land in question here today has little value except for recreation. To start with, a large part of the land is very rough terrain that would require a prohibitive expense to a developer to prepare them for residential lots. On a portion of the land, the town has constructed a pool. It would require a considerable buffer zone between the pool and any proposed lots that a developer would be able to economically develop.

The only land that would have value to a developer would be the two ballfields and the multipurpose field. The Forest Service has developed a plan to dispose of all of the land within the town limits by either trade or sale. Therefore, the disposal of this 31.14 acres of land is not contrary to the master plan for the Tonto National Forest. The only problem is that, as stated previously, the town is not in a position to purchase the land from the Forest Service at this time and most likely would not be able to do so in the future.

Mr. Chairman, may I thank you and your committee members again for the opportunity of speaking before you this morning on this issue that is very vital to our community? I hope that you will look with favor on your recommendation to your full committee.

Thank you.

[The prepared statement of Mr. Wilson follows:]

Town of Payson
303 North Beeline Highway
Payson, Arizona 85541

Town Hall 602/474-5242
Police Dept 602/474-3288

TOWN OF PAYSON
UNITED STATES FOREST SERVICE
LAND ACQUISITION
NORTH RUMSEY PARK

TESTIMONY OF DAVID N. WILSON
OCTOBER 4, 1985

BEFORE THE SENATE SUB-COMMITTEE
ON
ENERGY AND NATURAL RESOURCES

CHAIRMAN
SENATOR MALCOLM WALLOP

Chairman Wallop and members on behalf of Mayor Reynolds who is present here today and the citizens of the Town of Payson I wish to thank you for the opportunity to appear before you today to discuss a vital issue to the residents of our community and the citizens of the surrounding areas.

To begin with I would like to present to you a brief history of the development of the Rumsey Park project.

In 1958, Dale M. Rumsey of Phoenix acquired a 20 acre parcel of land within what is now the Town of Payson from the U.S. Forest Service. At the time of the acquisition, Mr. Rumsey stated that he acquired this land for the express purpose of building a rodeo grounds for the area.

In 1961, Mr. Rumsey signed an agreement with the Payson Chamber of Commerce to purchase 10 acres of the 20 acres for the rodeo grounds. In 1976, the Chamber paid off the 10 acre site where the rodeo grounds are located.

During the time period from 1961 to 1973, the Payson area experienced a considerable amount of growth and in December of 1973, the Town of Payson was incorporated. Soon after incorporation the Town Fathers realized the need for a park in Payson for the use of the residents of Payson and the surrounding area.

The plans for a park were pursued and the Town applied to the Arizona Outdoor Recreation Coordinating Commission (AORCC) for a grant to build a park. In order to secure the grant it was necessary to acquire another 10 acres and to use the 10 acres of the rodeo grounds owned by the Chamber as a match for the grant.

The Chamber gave, to the Town, their 10 acres that was used as the rodeo grounds and Mr. Rumsey donated the second 10 acres of land that adjoins the Chamber's land to the Town, thus making 20 acres of land owned by the Town. In 1976, AORCC granted the Town a $383,295.36 grant to construct the park. By mid-year in 1978, most of the project was completed and the park was well used by the citizens of the area.

In 1978, it was evident that the 20 acre site would not support the heavy use it was receiving by the citizens and more space was needed in order to meet the demand. The Town, at that time, started negotiations for a 40 acre parcel of U.S. Forest Service land adjacent to Rumsey Park (shown as letter "A" on the attached map.) By the end of 1978, a 20 year use permit for the 40 acres was received from the Forest Service.

Since that time a number of changes have taken place. To start with, the Town has purchased three pieces of property within the 40 acres. These are indicated on the attached map as 1, 2 and 3. Area 1 is a site for a water storage tank. Area 2 is a swimming pool site, well, warehouse and shop area for the Water Department. Area 3 is, as of yet, not developed and was purchased at the request of the Forest Service in order to square up the east boundary of the 40 acres.

In addition to the purchases made by the Town, the use permit was extended to 25 years so that the Town could secure an AORCC grant to construct a swimming pool in Area 2.

This then brings us to our being here today. The Town of Payson is interested in securing the remaining 31.14 acres of land remaining in the use permit. Due to the budget restrictions and the expense of just providing essential services to the residents of Payson it is not possible for the Town to purchase the land at this time, and it is doubtful that the Town would ever be able to purchase the land at the end of the twenty-five year use permit. For this reason the Town is requesting the 31.14 acres as a "gift" from the U.S. Forest Service.

The 31.14 acres of land is completely isolated from other Forest Service land within the Town being completely surrounded by land privately owned by developers and land owned by the Town. By looking at the map marked Exhibit "A" one can see that the land has little value except for recreational use.

It is not likely that the Forest Service could interest a developer in purchasing this land for development in that only about twenty-five acres of it could be developed. The land now being used as the softball field, minor league field, multi-purpose ball field, plus the land west of the swimming pool is the only land suitable for development as noted in Exhibit "B". The land that the water storage tank is on is not suitable for development due to the extremely high cost required to develop lots in that area. As for the parcel around the swimming pool I would question a developer building residences in that area without the establishment of a considerable buffer thus cutting down on the number of lots that could be developed for sale.

The Town, since acquiring the use permit from the U.S. Forest Service has made a considerable investment in this land. The map marked Exhibit "B" indicates these improvements. To date the Town has invested approximately $749,000.00 in the following manner:

1.	The purchase of land under the Townsite Act for the swimming pool, well site, and water storage tank.	$ 55,000.00
2.	Construction of the swimming pool.	$475,000.00
3.	Multi-purpose field.	$ 15,000.00
4.	Lights for the softball field.	$ 25,000.00
5.	Recreation building	$ 30,000.00
6.	Restrooms	$ 5,000.00
7.	Well Development	$ 45,000.00
8.	Water Department Building	$ 60,000.00
9.	Waterlines	$ 39,000.00
	TOTAL	$749,000.00

With the investment thus far the Town has made a commitment that this property will be used for recreation. The Town of Payson, under the Town Site Act, has shown good faith by purchasing some $78,900.00 worth of property from the Forest Service. $55,000.00 of this property is within the 37.25 acres of North Rumsey Park that is the land under the U.S. Forest Service use permit. The land that the Town has purchased is indicated on Exhibit "B" numbered 1, 2, and 3. Area 3 was purchased at the request of the Forest Service in order to square up the boundaries of the 37.25 acres.

The next logical question to be addressed is can the Town purchase the property from the U.S. Forest Service? Included in material provided is a General Fund Analysis for 1985/86 to 1989/1990 fiscal years. This document is marked Exhibit "C". In reviewing this exhibit the requests from department heads shows a deficit of $1,550,920.00 by the fiscal year 1989/1990. The Town Manager and the Financial Director have trimmed the request of the department heads to show a surplus of $231,264.00 for the same years. This is the only contingency that the Town has to take care of any emergency that might arise.

It would be impossible for the Town with the financial condition it faces over the next five years to enter into any type of agreement to purchase the park land. It is estimated that the purchase price would be somewhere around $522,000.00.

The park is well used by the permanent 7,000 residents of the Town as well as the 20,000 residents of the surrounding area. During the summer months, the use of the park is impacted by people from the Phoenix Metropolitan area who converge on the Payson area to escape the heat of the valley. It is not uncommon to have 25,000 people in Town on a weekend during the summer. Actual Arizona Department of Transportation Highway counters indicate 55,000 vehicles in Payson on the average summer weekend. Some of the busiest weekends during the summer will bring 18 to 20 softball teams to the park to participate in a tournament. In addition to softball, the Chamber of Commerce sponsors five Festivals drawing not only local residents and spectators from the surrounding area but also a considerable number of people from the Valley and from around the State. The park for all intent and purposes is a regional park and only such facility within a 90 mile radius affording organized recreation.

In 1980 the park had a yearly attendance figure of 164,625 with 36,775 persons using the facilities of North Rumsey Park. This figure has increased each year with our 1984 use of the park being 259,810 persons with 98,800 people using the Rumsey Park North faciflity. 1985 will be higher yet due to the opening of the swimming pool in the north park.

The last issue to be addressed is the relationship between the Town of Payson and the Tonto National Forest. The Town of Payson is located within the Tonto National Forest, in the Payson Ranger District. The Town consists of 13 square miles with 50% of the land belonging to the U.S.

Forest Service. Over the past several years the U.S. Forest Service has entered into a number of land exchanges with private developers for a portion of the U.S. Forest Service land within the Town boundary in order for these developers to develop the land for residential and commercial purposes.

The Town of Payson is fortunate to have an excellent working relation with the U.S. Forest Service. This has been accomplished by involving the Forest Service in the planning process of the Town, as well as having the Town involved with the Forest Service, in their planning process with respect to the Forest Service land adjacent to and within the Town.

In January, 1985, the Tonto National Forest published it's "Summary of the Tonto National Forest Draft Environmental Impact Statement and Proposed Forest Plan." In this document they state "Land Exchanges" would remain at the current level of approximately 300 acres per year for all alternatives. The Proposed Action provides for changes in currently identified base for exchange lands in the Payson and Young areas. A reduction of 4,500 acres of base-for-exchange land is needed in the Payson vicinity to reflect results of recent master planning by that city.

By reviewing the attached map of Payson marked Exhibit "D" it is easy to see that the U.S. Forest Service is moving in that direction. The area marked with green is land that the Forest Service has disposed of either by trade or by purchase. The yellow is the land that is owned by the Forest Service at this time. The land indicated as yellow with the black border, is as of this time, in the process of being traded by the Forest Service to private developers.

When one considers the intent of the Forest Service to dispose of all land within the Town of Payson then the request of the Town to acquire the 31.14 acres now under use permit to the Town as a park site is in agreement with the Forest Service's master plan with respect to the Tonto National Forest.

Mr. Chairman, again, may I thank you for the privilege of speaking to you today on the matter of North Rumsey Park. As stated at the beginning of this testimony this is a vital issue for the Town and one that I hope you and your committee can look with favor on.

Thank You,

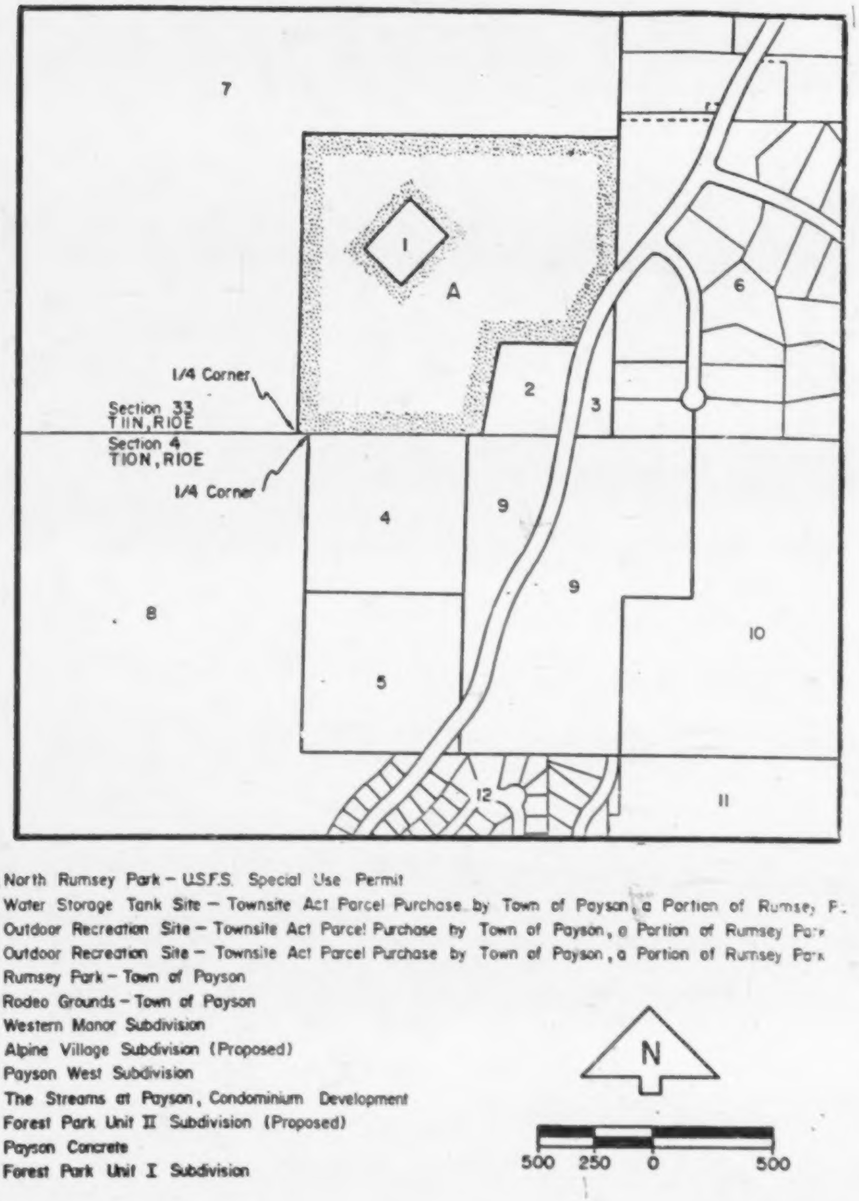
David N. Wilson

David N. Wilson
Grants Administrator

EXHIBITS

"A"	Area Map - North Rumsey Park
"B"	Development Map - North Rumsey Park
"C"	Financial Statement - Town of Payson
"D"	U.S. Forest Service - Land Exchange Map

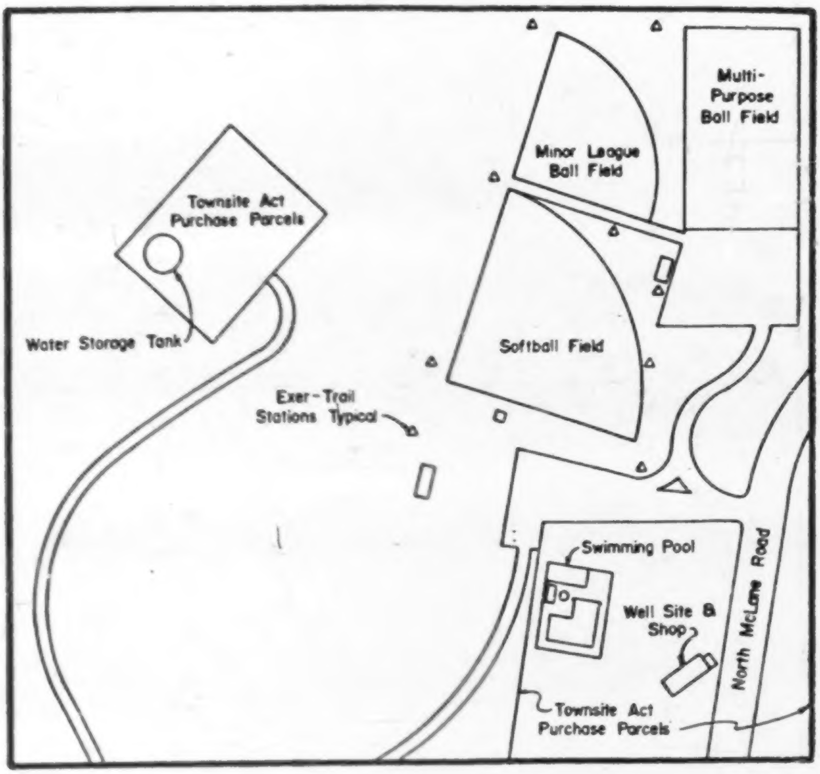
EXHIBIT A


7
1
A
1/4 Corner
Section 33
T11N, R10E
Section 4
T10N, R10E
1/4 Corner
2
3
6
4
9
9
8
10
5
12
11
N
500
250
0
500

A. North Rumsey Park – U.S.F.S. Special Use Permit
1. Water Storage Tank Site – Townsite Act Parcel Purchase by Town of Payson, a Portion of Rumsey P
2. Outdoor Recreation Site – Townsite Act Parcel Purchase by Town of Payson, a Portion of Rumsey Park
3. Outdoor Recreation Site – Townsite Act Parcel Purchase by Town of Payson, a Portion of Rumsey Park
4. Rumsey Park – Town of Payson
5. Rodeo Grounds – Town of Payson
6. Western Manor Subdivision
7. Alpine Village Subdivision (Proposed)
8. Payson West Subdivision
9. The Streams at Payson, Condominium Development
10. Forest Park Unit II Subdivision (Proposed)
11. Payson Concrete
12. Forest Park Unit I Subdivision

EXHIBIT B

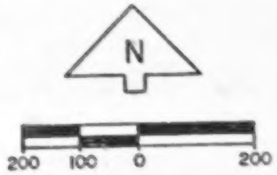
Town of Payson
Rumsey Park North


Multi-Purpose Ball Field
Minor League Ball Field
Townsite Act Purchase Parcels
Water Storage Tank
Softball Field
Exer-Trail Stations Typical
Swimming Pool
Well Site & Shop
North McLane Road
Townsite Act Purchase Parcels

Areas:

Government Lot 5 - Gross = 37.25 Acres
Townsite Act Parcels - Gross = 6.11 Acres

Request Acreage Net = 31.14 Acres


N
200
100
0
200

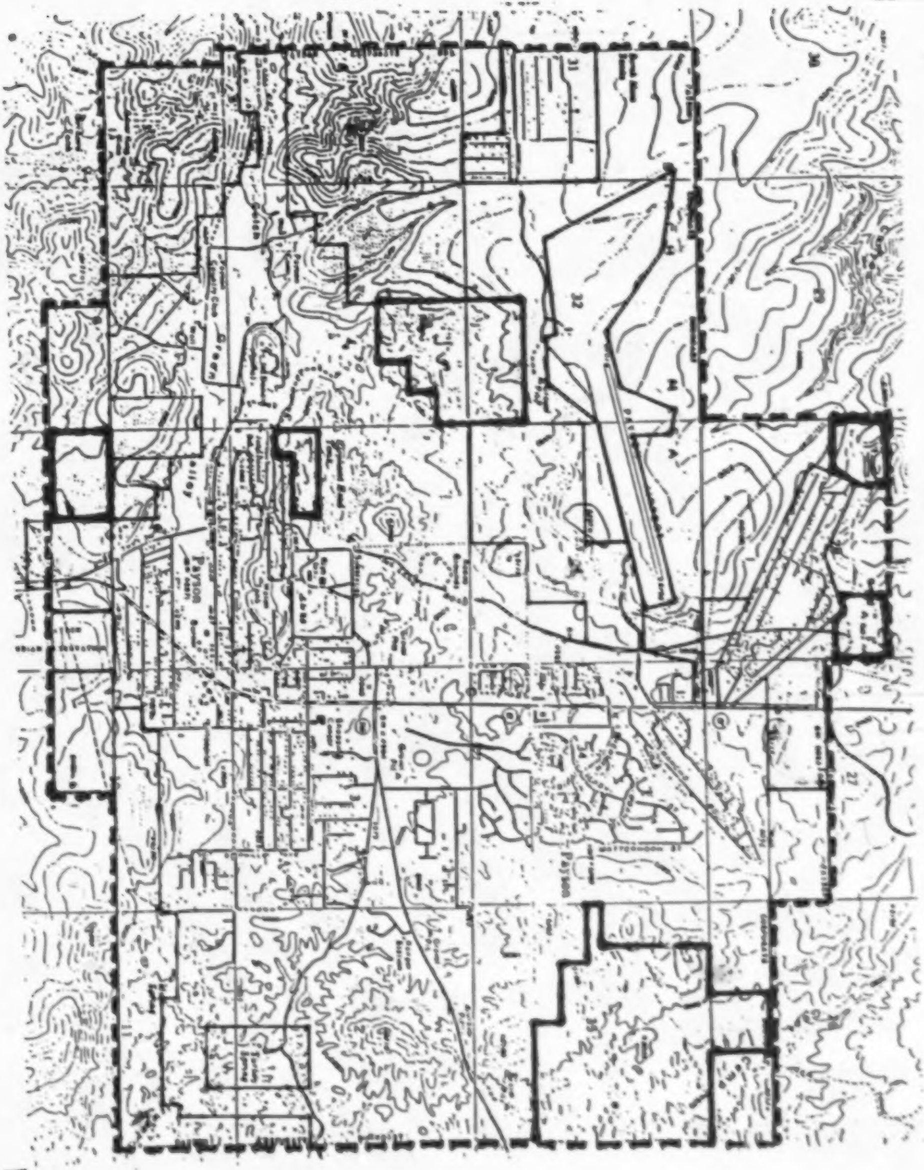
Government Lot 5, Section 33
T11N, R10E
G & SRB & M.

EXHIBIT C

TOWN OF PAYSON
GENERAL FUND ANALYSIS
1985/1986 to 1989/1990

	EXPENDITURE BUDGET REQUESTED BY DEPT. HEADS					PROPOSED BUDGET BY TOWN MANAGER AND FINANCE DIRECTOR				
	85/86	86/87	87/88	88/89	89/90	85/86	86/87	87/88	88/89	89/90
General Fund Revenue	$2,830,847	$3,142,094	$3,398,000	$3,673,475	$3,978,850	$2,830,847	$3,142,094	$3,398,000	$3,673,475	$3,978,850
Surplus From Prior Year	615,000	504,057	72,715	(512,731)	(1,094,437)	615,000	510,557	290,199	143,669	184,220
Total Available General Fund	$3,445,847	$3,646,151	$3,470,715	$3,160,744	$2,884,413	$3,445,847	$3,652,651	$3,688,199	$3,817,144	$4,163,070
Federal Rev. Sharing Revenue	160,000	40,000	-0-	-0-	-0-	160,000	40,000	-0-	-0-	-0-
Total Available G.F. & Fed. Rev.	$3,605,847	$3,686,151	$3,470,715	$3,160,744	$2,884,413	$3,605,847	$3,692,651	$3,688,199	$3,817,144	$4,163,070
Proposed Budget	$3,101,790	$3,613,436	$3,983,446	$4,255,181	$4,435,333	$3,095,290	$3,402,452	$3,544,530	$3,632,924	$3,931,806
Surplus (Deficit)	$ 504,057	$ 72,715	$ (512,731)	($1,094,437)	($1,550,920)	$ 510,557	$ 290,199	$ 143,669	$ 184,220	$ 231,264

EXHIBIT D


Payson
31
32
30
27
35

Senator DOMENICI. Mr. Wilson, how long is the use permit that you have in duration, how many years?

Mr. WILSON. We have about 20 years left on it, sir.

Senator DOMENICI. And just tell me again why a use permit doesn't serve your purpose?

Mr. WILSON. The problem we have with the use permit is that we do want to continue developing the park, and as I stated before, we have $749,000 into this site already. Twenty-five years from now, or 20 years from now, it would not be known whether or not the Forest Service would extend that use permit.

If you consider the fact that land constantly escalates in value—and our figures differ somewhat from the Forest Service figures on the value of it right now by an independent appraiser—it would be logical that we could not afford to purchase the land at this time; 20 years from now, when that use permit expires, we would not be able to purchase it then either.

So, for that reason, we are wanting to gain title to the land in order to go ahead and develop the rest of the land for recreational purposes.

Senator DOMENICI. So that basically, the reason is not that you could not use it, but rather to protect the investment and permanent use for that community for much longer than a use permit provides?

Mr. WILSON. Yes, sir. That would be our reason for it. You know, the use permit will allow us to do exactly what we're doing with the land now, and that is using it for recreation, but none of us can predict the future. We don't know what will happen 20 years from now when the permit expires. And we could not purchase the land at that time.

Senator DOMENICI. In the event the land is conveyed as you request, is there any objection on the part of the community to a reversionary clause in it, in the event that you stop using it for recreational purposes?

Mr. WILSON. The mayor could probably answer that better than I, but I personally would say no.

Mayor REYNOLDS. I will let go the chief's comment there, Mr. Chairman. That would be very fine.

Senator DOMENICI. I don't know what the committee will do, but I can almost assure you that if they grant your request, they will put a reversionary clause in it. They wouldn't want, in 15 years, for you to sell it for commercial development and then have to come back to the Federal Government.

Mr. WILSON. We would have no problem with that, sir. I would ask that the prepared statement that I presented to the committee, which is relatively short, be a part of the congressional record.

Senator DOMENICI. It will be.

Mayor, did you have anything else to add?

Mayor REYNOLDS. Only to echo the chief's remarks, Mr. Chairman, and members of your committee. We wish to thank you very much for taking time in your busy schedule to hear our request, and it is the hope of all of us that it would be acted upon favorably.

Thank you.

Senator DOMENICI. Thank you very much.

Mr. Bavasi from the city of Flagstaff. Is it cold there already?

Mr. **Bavasi**. It is getting chilly, Mr. Chairman.

Senator **Domenici**. It is still pretty, though.

Mr. **Bavasi**. Gorgeous.

Senator **Domenici**. How big is Flagstaff now?

Mr. **Bavasi**. Thirty-eight thousand.

Senator **Domenici**. Is it growing?

Mr. **Bavasi**. Yes, sir.

Senator **Domenici**. Are there still a lot of pine trees, though?

Mr. **Bavasi**. Absolutely.

Senator **Domenici**. I used to drive through there.

Mr. **Bavasi**. Please come and visit.

Senator **Domenici**. Do you have some prepared testimony?

Mr. **Bavasi**. Yes, sir.

Senator **Domenici**. You may proceed. If you want to read it, fine. If you want to summarize it, that's fine.

STATEMENT OF CHRISTOPHER J. BAVASI, COUNCILMAN, CITY OF FLAGSTAFF, AZ

Mr. **Bavasi**. Mr. Chairman, I want to thank you and the members of your subcommittee for the opportunity to speak to you today about a matter very important to over 38,000 residents of the city of Flagstaff, AZ.

Located within several blocks of the historic downtown area of Flagstaff, is a 132½ acre parcel of property known as Thorpe Park. The park site has been utilized as a city park and recreation area since 1917, through special use permits from the U.S. Department of Agriculture and the U.S. Forest Service.

Today the site is the show piece of the city's park system, with baseball fields, tennis courts, playgrounds, adult nutritional center, picnic areas, ecology study area, and many acres of forested open space.

Use of the park and its outstanding recreation facilities is enjoyed by almost every one of the citizens of Flagstaff. One example of the level of use of the park during just the summer evenings are the over 2,000 softball games that are played at the park site.

An act of Congress in 1980 provided for the formal sale of the 132.5-acre Thorpe Park site to the city of Flagstaff for the fair market value anytime within the next 10-year period. Appraisals received from the Forest Service indicate that the acquisition of the park will cost the city approximately $875,000. The city of Flagstaff, like many developing cities throughout the country, has a substantial financial obligation to provide and meet future basic community needs outside the areas of parks and recreation.

These community needs include water, sewer, drainage upgrading, street circulation improvements, police, fire, court and library facility upgrading. These required needs account for a significant portion of the city's present and future expenditures. Examples of anticipated present and future expenditures over the next 5 years total over $60 million. A cost breakdown of anticipated expenditures has been provided to you, Mr. Chairman, and your subcommittee members under separate cover.

Highlights of anticipated future expenditures for the city of Flagstaff include $23,000 for water and sewer improvements, over

$7 million for drainage facilities, $25 million for street upgrading and new construction projects, and $5 million for police, fire, court and library facilities. I am requesting the 132.5 acres of the U.S. Forest Service property known as Thorpe Park be transferred to the city of Flagstaff, in fee title, without any required remuneration on behalf of the city of Flagstaff.

The major reasons this request is being made to you are as follows: There are many basic city of Flagstaff services, including water, sewer, streets, police, fire which will require future upgrading and have precedent over the Thorpe Park purchase. The 132½ acres of Forest Service property have been used as a city park site since 1917 by the citizens of Flagstaff.

Through the years, many recreation improvements have been developed to upgrade the park, with the site becoming the show piece of the city's park system. The Forest Service has no known future development plans for the 132½ acres of existing parkland.

Again, on behalf of the city of Flagstaff, AZ and its citizens, I would like to thank you for the opportunity to personally bring to your attention this very special request. I will be happy to answer any questions or provide any additional material which you or members of your subcommittee feel is necessary.

[The prepared statement of Mr. Bavasi follows:]

October 4, 1985

ENERGY SUBCOMMITTEE ON PUBLIC LANDS
CHAIRMAN MALCOLM WALLOP

SUBJECT : City of Flagstaff, Arizona
Thorpe Park Property Acquisition

PRESENTED BY : City of Flagstaff
Councilmember Christopher J. Bavasi

Mr. Chairman:

I would like to thank you and the members of your subcommittee for the opportunity to speak today about a matter very important to over 38,000 residents of the City of Flagstaff, Arizona.

Located within several blocks of the historic downtown area of Flagstaff is a 132.5 acre parcel of property known as Thorpe Park. The park site has been utilized as a city park and recreation area since 1917 through special use permits from the United States Department of Agriculture and the United States Forest Service. Today, the site is the show piece of the City's park system with baseball fields, tennis courts, playgrounds, adult/nutritional center, picnic areas, ecology study area and many acres of forested open space. Use of the park and its outstanding recreation facilities is enjoyed by almost everyone of the citizens of Flagstaff ranging from the small child to the senior citizen. One example of the level of use of the park during just the summer evenings, is the over 2,000 softball game that are played at the park site.

An act of Congress in 1980 provided from the formal sale of the 132.5 Thrope Park site to the City of Flagstaff for the fair market value (as established in 1980) anytime within the next 10 year period. Appraisals received from the Forest Service indicate the acquisition of the park will cost the City approximately $875,000.

The City of Flagstaff, like many developing cities throughout the country, has a substantial financial obligation to provide and meet future basic community needs outside the areas of parks and recreation. These community needs include water, sewer and drainage upgrading, street circulation improvements, police, fire, court and library facility upgrading. These required need account for a significant portion of the City's present and future expenditures. Examples of anticipated present and future expenditures over the next five years total over $60 million. A cost breakdown of anticipated expenditures has been provided to you, Mr. Chairman, and your subcommittee members under separate cover. Highlights of anticipated future expenditures for the City of Flagstaff include $23,000,000 for water and sewer improvements, over $7,000,000 for drainage facilities, $25,000,000 for street upgrading and new construction projects and $5,000,000 for police, fire, court and library facilities.

I am, as a representative of the 38,000 citizens of the City of Flagstaff, requesting the 132.5 acres of United States Forest Service property, known as Thorpe Park, be transferred to the City of Flagstaff in fee title without any required renumeration on behalf of the City of Flagstaff. The four (4) major reasons this request is being made to you, Mr. Chairman ar members of your subcommittee are as follows:

1. There are many basic City of Flagstaff services including water, sewer, streets, police and fire, which will require future upgrading and have precedence over the Thorpe Park purchase.

2. The 132.5 acres of Forest Service property have been used as a City park site since 1917 by the citizens of Flagstaff. Through the years, many recreation improvements have been developed to upgrade the park with the site becoming the show piece of the City's park system.

3. The Forest Service has no known future development plans for the 132.5 acres of existing park land.

4. Conveying fee title to the the 132.5 acres of the City of Flagstaff would alleviate unnecessary and burdensome paperwork while allowing the City to direct higher priority expenditures to other areas.

Again, on behalf of the City of Flagstaff, Arizona, and its citizens, I would like to thank you for the opportunity to personally bring to your attention this very special request. I will be happy to answer any questions or provide any additional material which you or your members of your subcommittee feel is necessary.

Senator **Domenici**. Thank you very much.

I don't know when the committee will decide to dispose of these matters, but I assume it will not be terribly long, and you obviously will be advised both through the committee and through your Senators. And we thank you very much for your time and we hope it comes out to your satisfaction.

The committee is adjourned.

[Whereupon, at 11:20 a.m., the hearing was adjourned.]

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